98TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 98-890
Part 2

SUPERFUND EXPANSION AND PROTECTION ACT OF 1984

AUGUST 8, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 5640]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5640)[1] to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is an amendment in the nature of a substitute for Title V of the bill. The amendment is as follows:

Strike out title V of the bill and insert the following:

TITLE V—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 501. SHORT TITLE.

This title may be cited as the "Superfund Revenue Act of 1984".

SEC. 502. INCREASE IN TAX ON PETROLEUM.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax

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[1] H.R. 5640, The Superfund Expansion and Protection Act of 1984, has been considered and reported favorably by the Committee on Energy and Commerce (H. Rept. 98-890, Pt. 1; July 16, 1984). The bill was referred to the Committee on Ways and Means for consideration of the revenue aspects of the legislation.

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on petroleum) are each amended by striking out "0.79 cent" and inserting in lieu thereof "7.86 cents".

(b) TERMINATION OF TAX.—

(1) Subsection (d) of section 4611 of such Code (relating to termination) is amended to read as follows:

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990."

(2) Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1985.

SEC. 503. INCREASE IN TAX ON CERTAIN CHEMICALS.

(a) INCREASE IN RATE OF TAX; ADDITIONAL CHEMICALS TAXED.—Subsection (b) of section 4661 of the Internal Revenue Code of 1954 (relating to amount of tax imposed on certain chemicals) is amended by striking out the table contained in such subsection and inserting in lieu thereof the following:

"In the case of:	The tax (before any inflation adjustment) is the following amount per ton:			
	Sales during 1985	Sales during 1986	Sales during 1987	Sales during 1988 and thereafter until the termination date
Organic substances				
Acetylene	$29.91	$30.00	$30.00	$30.00
Benzene	6.60	8.80	9.90	13.20
Butadiene	9.79	13.05	14.69	19.58
Butane	4.87	5.60	6.30	8.40
Butylene	5.15	6.87	7.73	10.30
Coal-derived light oils	5.02	6.69	7.53	10.04
Coal tars	1.78	2.37	2.67	3.56
Ethylene	6.89	9.19	10.33	13.78
Methane	3.44	3.44	3.44	4.00
Naphthalene	6.89	9.19	10.33	13.78
Propylene	5.87	7.83	8.80	11.74
Toluene	5.19	6.92	7.78	10.38
Xylene (before 1989)	10.65	14.05	16.75	22.35
Xylene (after 1988)				15.40
Inorganic substances				
Aluminum sulfate	3.52	4.69	5.28	7.04
Aluminum phosphide	30.00	30.00	30.00	30.00
Ammonia	2.64	3.52	3.96	5.28
Antimony	30.00	30.00	30.00	30.00
Antimony trioxide	30.00	30.00	30.00	30.00
Arsenic	30.00	30.00	30.00	30.00
Arsenic trioxide	12.97	17.29	19.46	25.94
Asbestos	5.76	7.68	8.64	11.52

"In the case of:	The tax (before any inflation adjustment) is the following amount per ton:			
	Sales during 1985	Sales during 1986	Sales during 1987	Sales during 1988 and thereafter until the termination date
Barium sulfide	7.13	9.51	10.70	14.26
Bromine	9.73	12.97	14.59	19.46
Cadmium	30.00	30.00	30.00	30.00
Chlorine	3.05	4.07	4.57	6.10
Chromite	1.52	1.52	1.52	1.70
Chromium	30.00	30.00	30.00	30.00
Cobalt	30.00	30.00	30.00	30.00
Copper	23.60	30.00	30.00	30.00
Cupric oxide	30.00	30.00	30.00	30.00
Cupric sulfate	23.18	30.00	30.00	30.00
Cuprous oxide	30.00	30.00	30.00	30.00
Hydrochloric acid	0.94	1.25	1.41	1.88
Hydrogen fluoride	23.50	30.00	30.00	30.00
Lead	8.27	11.03	12.41	16.54
Lithium carbonate	30.00	30.00	30.00	30.00
Manganese	22.69	30.00	30.00	30.00
Mercury	30.00	30.00	30.00	30.00
Nickel	30.00	30.00	30.00	30.00
Nitric acid	3.05	4.07	4.57	6.10
Phosphoric acid	7.65	10.20	11.48	15.30
Phosphorous	6.65	6.65	6.65	6.65
Potassium dichromate	15.03	20.04	22.54	30.00
Potassium hydroxide	9.83	13.11	14.75	19.66
Selenium	30.00	30.00	30.00	30.00
Sodium dichromate	18.48	24.64	27.72	30.00
Sodium hydroxide	2.82	3.76	4.23	5.64
Stannic chloride	30.00	30.00	30.00	30.00
Stannous chloride	30.00	30.00	30.00	30.00
Sulfuric acid	0.78	1.04	1.17	1.56
Uranium oxide	30.00	30.00	30.00	30.00
Vanadium	30.00	30.00	30.00	30.00
Zinc	12.48	16.64	18.72	24.96
Zinc chloride	10.55	14.07	15.83	21.10
Zinc oxide	14.43	19.24	21.65	28.86
Zinc sulfate	8.30	11.07	12.45	16.60".

(b) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—Section 4661 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1985, the amount of the tax imposed by

subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) APPLICABLE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar yea. is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for 1984.

"(B) APPLICABLE PRICE INDEX.—For purpose of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or if the increase determined under paragraph (1) is a multiple of ½ of 1 cent, such increase shall be increased to the next higher multiple of 1 cent)."

(c) EXEMPTION FOR EXPORTS OF TAXABLE CHEMCIALS.—

(1) Section 4662 of such Code (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(l) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(2) Paragraph (1) of section 4662(d) of such Code (relating to refund or credit of certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (e) of this section)".

(d) SPEICAL RULES FOR CERTAIN CHEMICALS—

(1) REPEAL OF EXEMPTION FOR CHEMICALS DERIVED FROM COAL.—Paragraph (4) of section 4662(b) of such Code (relating to exemption for substances derived from coal) is hereby repealed.

(2) EXEMPTION FOR PHOSPHORIC ACID USED IN PRODUCING FERTILIZER.—Subparagraph (A) of section 4662(b)(2) of such Code is amended by striking out "sulfuric acid," and inserting in lieu thereof "sulfuric acid, phosphoric acid,".

(3) EXEMPTION FOR CERTAIN SUBSTANCES HAVING TRANSITORY PRESENCE DURING EXTRACTING PROCESS.—Clause (i) of section 4662(b)(6)(B) of such Code (relating to substance having transitory presence during extracting process) is amended to read as follows:

"(i) any taxable chemical which is a metal or metallic compound, and".

(4) SPECIAL RULE FOR XYLENE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term 'xylene' does not include any separated isomer of xylene."

(e) EFFECTION DATE—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1985.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE 1985—

(A) PERIOD AFTER ENACTMENT.—Effective during the period beginning on the date of the enactment of this Act and ending on December 31, 1984, no tax shall be imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use xylene.

(B) REFUND OF TAX PREVIOUSLY IMPOSED.—In the case of any tax imposed by section 4661 of such Code on the sale or use xylene before the date of the enactment of this Act,

such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(C) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (B) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(D) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) SPECIAL RULE FOR CERTAIN EMPLOYEE-OWNED CHEMICAL PLANTS.—

(A) IN GENERAL.—In the case of any organic substance manufactured or produced at a qualified employee-owned chemical plant—

(i) the table contained in section 4661(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall remain in effect during calendar years 1985, 1986, and 1987, and

(ii) the amendments made by subsections (a) and (b) of this section shall take effect on January 1, 1988.

(b) QUALIFIED EMPLOYEE-OWNED CHEMICAL PLANT.—For purposes of subparagraph (A), the term "qualified employee-owned chemical plant" means any facility for the manufacture or production of taxable chemicals which is owned by a qualified employee-owned corporation and which was operated by such corporation on August 1, 1984.

(C) QUALIFIED EMPLOYEE-OWNED CORPORATION.—For purposes of subparagraph (B)—

(i) IN GENERAL.—The term "qualified employee-owned corporation" means any corporation headquartered in Odessa, Texas, if—

(I) during December 1983, there was an employee buy-out of substantialy all of the common stock of such corporation,

(II) as of August 1, 1984, such corporation had at least 100 employees who were stockholders in such corporation, and

(III) as of August 1, 1984, substantially all of the common stock of such corporation was owned by employees, officers, or directors of such corporation (or their spouses).

(ii) SUBSIDIARIES INCLUDED.—The term "qualified employee-owned corporation" includes any corporation which—

(I) is a wholly owned subsidiary of a corporation meeting the requirements of clause (i), and

(II) was such a subsidiary on August 1, 1984.

SEC. 504. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding at the end thereof the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section,

"(2) appropriated to the Superfund pursuant to section 504(b) of the Superfund Revenue Act of 1984, or

"(3) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4611 or 4661 (relating to taxes on petroleum and certain chemicals),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(4) penalties assessed under title I of CERCLA, and

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) EXPENDITURES FROM SUPERFUND.—Amounts in the Superfund shall be available only for purposes of making expenditures—

"(1) to carry out the purposes of paragraphs (1), (2), and (4) of section 111(a) of CERCLA as in effect on the effective date of the Superfund Protection and Expansion Act of 1984, or

"(2) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), and (4) of such section 111(a) (as so in effect).

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) LIMITATIONS ON ADVANCES TO SUPERFUND.—

"(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts described in paragraph (1) of subsection (b) which will be transferred to the Superfund during the following 12 months.

"(B) ADVANCES FOR PAYMENT OF RESPONSE COSTS.—No amount may be advanced after March 31, 1988, to the Superfund except for the purpose of paying response costs described in paragraph (1), (2), or (4) of section 111(a) of

CERCLA which are incurred incident to a spill the effects of which the Secretary determines to be catastrophic.

"(C) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund (or when required by paragraph (2)(C)).

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) ESTABLISHMENT OF SEPARATE ACCOUNT FOR LEAKING UNDERGROUND STORAGE TANKS, ETC.—

"(1) CREATION OF ACCOUNT.—There is established in the Superfund a separate account to be known as the 'Leaking Underground Storage Tank Account' (hereinafter in this subsection referred to as the 'Account') consisting of such amounts as may be—

"(A) appropriated to the Account pursuant to section 504(b) of the Superfund Revenue Act of 1984,

"(B) transferred to the Account as provided in paragraph (2), or

"(C) credited to the Account as provided in section 9602(b).

"(2) TRANSFERS TO ACCOUNT.—The Secretary of the Treasury shall transfer to the Account from the Superfund amounts equivalent to the amounts described in paragraphs (2), (3), (4), and (5) of subsection (b) which would not be so described but for the amendments made by sections 101 and 102 of the Superfund Expansion and Protection Act of 1984.

"(3) EXPENDITURES FROM ACCOUNT.—

"(A) IN GENERAL.—Amounts in the Account shall be available for expenditures which may be made from the Superfund under subsection (c) solely by reason of the amendments described in paragraph (2). Any expenditure which may be made from the Account (determined without regard to subparagraph (B)) may be made only from the Account.

"(B) EXPENDITURE LIMITATION.—The aggregate amount of expenditures which may be made from the Account after September 30, 1985, and before October 1, 1990, shall not exceed the sum of—

"(i) $850,000,000, plus

"(ii) the aggregate of the amounts described in subparagraphs (B) and (C) of paragraph (1) which are transferred or credited to the Account during such period.

"(4) REPAYABLE ADVANCES.—

"(A) AUTHORIZATION OF TRANSFERS.—The Secretary may transfer, as repayable advances, to the Account from other amounts in the Superfund, such sums as may, from time to time, be necessary to make the expenditures described in paragraph (3).

"(B) REPAYMENT OF ADVANCES.—Advances made to the Account pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the Superfund, when the Secretary of the Treasury determines that moneys are available for such purposes in the Account (or when required pursuant to subparagraph (D)).

"(C) RATE OF INTEREST.—The interest on advances made pursuant to this paragraph shall be at rates determined under the rules of subparagraph (B) of subsection (d)(3) and shall be compounded annually.

"(D) LIMITATIONS ON ADVANCES.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (d)(2) shall apply for purposes of this paragraph.

"(f) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Expansion and Protection Act of 1984 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund is unable (by reason of paragraph (1)) to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), by paid in full in the order in which they were finally determined.

"(4) APPLICATION TO ACCOUNT.—Rules similar to the rules of paragraphs (2) and (3) shall apply to the Leaking Underground Storage Tank Account."

(b) AUTHORIZATION OF APPROPRIATIONS, ETC.—

(1) IN GENERAL.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

(A) 1986, $421,000,000,
(B) 1987, $421,000,000,
(C) 1988, $496,000,000,
(D) 1989, $496,000,000, and
(E) 1990, $496,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this paragraph (and paragraph (2) of section 221(b) of the Hazard-

ous Substance Response Act of 1980, as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.

(2) LEAKING UNDERGROUND STORAGE TANK ACCOUNT.—Of the amount appropriated under paragraph (1), not more than $850,000,000 may be appropriated to the Leaking Underground Storage Tank Account of the Hazardous Substance Superfund.

(c) CONFORMING AMENDMENT.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to reach as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"SEC. 9505. Hazardous Substance Superfund."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendment made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

SEC. 505. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 of the Internal Revenue Code of 1954 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) TECHNICAL AMENDMENT.—Section 107(k) and 111(j) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 are hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1983.

SEC. 506. INCREASE IN TAX IF WASTE-END TAX NOT EXACTED.

(a) INCREASE IN TAX.—

(1) TAX ON PETROLEUM.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environ-

mental tax on petroleum), as amended by section 502, are each amended by striking out "7.86 cents" and inserting in lieu thereof "9.65 cents".

(2) TAX ON CERTAIN CHEMICALS.—Subsection (b) of section 4661 of such Code (relating to amount of tax imposed on certain chemicals), as amended by section 503, is amended by striking out the table contained in such subsection and inserting in lieu thereof the following:

"In the case of:	The tax (before any inflation adjustment) is the following amount per ton:		
	Sales during 1987	Sales during 1988 and 1989	Sales after 1989 and before the termination date
Organic substances			
Acetylene	$35.00	$35.00	$35.00
Benzene	13.20	15.40	17.60
Butadiene	19.58	22.84	26.11
Butane	8.40	9.80	11.20
Burylene	10.30	12.02	13.73
Coal-derived light oils	10.04	11.71	13.39
Coal tars	3.56	4.15	4.75
Ethylene	13.78	16.08	18.37
Methane	4.00	4.67	5.33
Napthalene	13.78	16.08	18.37
Propylene	11.74	13.70	15.65
Toluene	10.38	12.11	13.84
Xylene	21.30	21.77	20.53
Inorganic substances			
Aluminum sulfate	7.04	8.40	9.35
Aluminum phosphide	35.00	35.00	35.00
Ammonia	5.28	6.16	7.04
Antimony	35.00	35.00	35.00
Antimony trioxide	35.00	35.00	35.00
Arsenic	35.00	35.00	35.00
Arsenic trioxide	25.94	30.26	34.59
Asbestos	11.52	13.44	15.36
Barium sulfide	14.26	16.64	19.01
Bromine	19.46	22.70	25.94
Cadmium	35.00	35.00	35.00
Chlorine	6.10	7.12	8.13
Chromite	1.70	1.98	2.27
Chromium	35.00	35.00	35.00
Cobalt	35.00	35.00	35.00
Copper	35.00	35.00	35.00
Cupric oxide	35.00	35.00	35.00
Cupric sulfate	35.00	35.00	35.00
Cuprous oxide	35.00	35.00	35.00
Hydrochloric acid	1.88	2.19	2.51

"In the case of:	The tax (before any inflation adjustment) is the following amount per ton:		
	Sales during 1987	Sales during 1988 and 1989	Sales after 1989 and before the termination date
Hydrogen fluoride	35.00	35.00	35.00
Lead	16.54	19.30	22.05
Lithium carbonate	35.00	35.00	35.00
Manganese	35.00	35.00	35.00
Mercury	35.00	35.00	35.00
Nickel	35.00	35.00	35.00
Nitric acid	6.10	7.12	8.13
Phosphoric acid	15.30	17.85	20.40
Phosphorous	7.59	7.59	7.59
Potassium dichromate	30.06	35.00	35.00
Potassium hydroxide	19.66	22.94	26.21
Selenium	35.00	35.00	35.00
Sodium dichromate	35.00	35.00	35.00
Sodium hydroxide	5.64	6.58	7.52
Stannic chloride	35.00	35.00	35.00
Starmmous chloride	35.00	35.00	35.00
Sulfuric acid	1.56	1.82	2.08
Uranium oxide	35.00	35.00	35.00
Vanadium	35.00	35.00	35.00
Zinc	24.96	29.12	33.28
Zinc chloride	21.10	24.62	28.13
Zinc oxide	28.86	33.67	35.00
Zinc sulfate	16.60	19.37	22.13."

(3) INCREASED TAXES TO TAKE EFFECT ONLY IF WASTE-END TAX NOT ENACTED.—The amendments made by this subsection—

(A) shall take effect only if a Federal waste-end tax is not enacted before July 1, 1986, and

(B) if such tax is not enacted before July 1, 1986, shall take effect on January 1, 1987.

(b) STUDY OF WASTE-END TAX.—

(1) IN GENERAL.—The Secretary of the Treasury (in consultation with the Environmental Protection Agency and the International Trade Commission) shall conduct a study of various proposals for a Federal waste-end tax (and their probable trade and other economic effects) in order to develop a proposal for such a tax which is designed to discourage the disposal of hazardous wastes in environmentally unsound manners and to accomplish this result with maximum administrative feasibility.

(2) REPORT.—Not later than April 1, 1985, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under

paragraph (1) together with a proposal in legislative form for a Federal waste-end tax.

(c) FEDERAL WASTE-END TAX.—For purposes of this section, the term "Federal waste-end tax" means any Federal excise tax imposed with respect to the disposal of hazardous substances.

SEC. 507. STUDY OF ECONOMIC IMPACT OF TAX ON CERTAIN CHEMICALS.

(a) GENERAL RULE.—The Secretary of the Treasury (in consultation with the International Trade Commission) shall conduct a study on—

(1) the trade and other economic effects of the tax imposed by section 4661 of the Internal Revenue Code of 1954, and

(2) the feasibility and desirability of imposing a tax on imported derivatives of substances subject to the tax imposed by such section 4661.

Such study shall develop the methodology for selecting the list of substances which would be subject to the tax referred to in paragraph (2) and the means of making such a tax compatible with international trade agreements.

(b) REPORT.—Not later than April 1, 1985, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a).

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I. SUMMARY

A. Present Law

Hazardous Substance Response Trust Fund

Under present law, excise taxes are imposed on crude oil and certain chemicals, and revenues equivalent to these taxes are deposited into the Hazardous Substance Response Trust Fund ("Superfund"). These amounts are available for expenditures incurred in connection with releases or threats of releases of hazardous substances into the environment, including cleanup costs and the payment of damages for injury to or destruction of certain natural resources controlled by the Federal or State governments. These provisions were enacted in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), which established a comprehensive system of notification, emergency response, enforcement, and liability for hazardous spills and uncontrolled hazardous waste sites.

The crude oil tax of 0.79 cents per barrel is imposed on the receipt of crude oil at a U.S. refinery, the import of crude oil and petroleum products, and the use or export of domestically produced crude oil (if the tax has not already been paid).

The tax on chemicals is imposed on the sale or use of 42 specified organic and inorganic substances if they are produced in or imported into the United States. The taxable chemicals generally are chemicals that are hazardous or chemicals which may create hazardous products or wastes when used. The rates vary from 22 cents per ton to $4.87 per ton.

The taxes generally will terminate after September 30, 1985. However, the taxes would be suspended during calendar years 1984 or 1985, if, on September 30, 1983, or 1984, respectively, the unobligated trust fund balance were to exceed $900 million, and if the unobligated balance on the following September 30 would exceed $500 million, even if these excise taxes were to be suspended for the calendar year in question. Further, the authority to collect taxes will terminate when cumulative receipts from these taxes reach $1.38 billion.

Post-closure Liability Trust Fund

Effective after September 30, 1983, an excise tax of $2.13 per dry weight ton is imposed on hazardous waste which is received at a qualified hazardous waste disposal facility and which will remain at the facility after its closure. These tax receipts are intended to be deposited into the Post-closure Liability Trust Fund. This Trust Fund is to assume completely the liability, under any law, of owners and operators of closed hazardous waste disposal facilities

which meet certain conditions. These provisions were enacted in CERCLA.

The tax on hazardous wastes will be suspended for any calendar year after 1984, if the unobligated balance in the Trust Fund exceeds $200 million on the preceding September 30. Further, authority to collect the tax will terminate when cumulative receipts from the crude oil and chemical excise taxes described above reach $1.38 billion, or, if earlier, after September 30, 1985.

B. Committee Amendment to Title V of H.R. 5640

The committee amendment redesignates the "Hazardous Substance Response Trust Fund" as the "Hazardous Substance Superfund" and continues and expands the fund to enable it to carry out the expanded program provided by H.R. 5640 as reported by the Committee on Energy and Commerce (including costs of responding to releases of petroleum and petroleum products; the financing of certain emergency relief and health effect studies, certain toxicological profiles, and certain hazard evaluation projects; and a specific schedule for cleanup of hazardous waste sites).

To finance this program, the present law petroleum tax is increased from 0.79 cents per barrel to 7.86 cents per barrel. Similarly, the excise tax on feedstock chemicals is increased and applied to 15 additional feedstock chemicals. These tax rates are subject to a 4-year phase-in and an inflation adjustment. The present law exemption for coal-derived substances is repealed; other present law exemptions are retained. The committee amendment further allows a refund or credit for taxes on exported feedstock substances. The amendments in the petroleum and feedstock chemical taxes are generally effective from January 1, 1985, through September 30, 1990, after which time the taxes are scheduled to expire.

Under the committee amendment, the petroleum and feedstock chemical tax rates will be increased on January 1, 1987, if a hazardous waste disposal tax ("waste end tax") has not been enacted by July 1, 1986. The Treasury (in consultation with the EPA and the International Trade Commission) is required to develop a legislative proposal for such a tax by April 1, 1985. The Treasury is further required to study (in consultation with the International Trade Commission) the feasibility of imposing a tax on imported substances derived from taxable feedstock chemicals.

The committee amendment generally continues the expenditure purposes of the present law Superfund, but provides that no further funds may be used for the payment of natural resource damage claims. Appropriations of $2.3 billion to the Superfund from general revenues are authorized for fiscal years 1986 through 1990, for a total (including revenues from the petroleum and feedstock taxes) of approximately $10 billion over this period. Of the amount of general revenue appropriated, not more than $850 million is to be allocated to a special account within the Superfund for expenditures related to releases of petroleum or petroleum products, including releases from leaking underground storage tanks. No revenues from the petroleum or feedstock taxes may be placed in this account. Expenditures for such purposes may be made only from this account.

The Post-closure Liability Trust Fund, and the related tax on hazardous wastes, are repealed by the committee amendment, effective after September 30, 1983, and previously paid amounts are to be refunded.

II. EXPLANATION OF WAYS AND MEANS COMMITTEE SUBSTITUTE FOR TITLE V OF H.R. 5640

A. Present Law

1. Hazardous Substance Response Taxes and Trust Fund

Hazardous Substance Response Trust Fund

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (P.L. 96-510) establishes a comprehensive system of notification, emergency response, enforcement, and liability for hazardous substance spills and uncontrolled hazardous waste sites.

The Hazardous Substance Response Trust Fund ("Superfund") was established by CERCLA as a trust fund in the Treasury of the United States. Amounts in the Hazardous Substance Response Trust Fund are available for expenditures incurred under section 111 of CERCLA (as enacted) in connection with releases or threats of releases of hazardous substances into the environment. Allowable costs include (a) costs of responding to the presence of hazardous substances on land or in the water or air, including cleanup and removal of such substances and remedial action, (b) payment of claims for injury to, or destruction or loss of, natural resources belonging to or controlled by the Federal or State governments, and (c) certain costs related to response including damage assessment, epidemiologic studies, and maintenance of emergency strike forces.[1]

Under CERCLA, there are appropriated to the Hazardous Substance Response Trust Fund: (1) amounts equivalent to amounts received in the Treasury under Internal Revenue Code sections 4611 (pertaining to the petroleum tax) and 4661 (pertaining to the tax on certain feedstock chemicals); (2) amounts recovered from responsible parties on behalf of the Hazardous Substance Response Trust Fund under CERCLA; (3) penalties assessed under title I of CERCLA; and (4) punitive damages under section 107(c)(8) of CERCLA (pertaining to damages for failure to provide removal or remedial action upon order of the President).

In addition to these amounts, CERCLA authorizes to be appropriated from general revenues to the Trust Fund $44 million per year for fiscal years 1981 through 1985 (i.e., an aggregate of $220 million) and, for 1985, an additional amount equal to so much of the aggregate authorized to be appropriated for 1981 through 1984 as has not been appropriated before October 1, 1984. Not more than 15 percent of the Trust Fund receipts attributable to taxes and gen-

[1] The Fund also may be used for payment of claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act. All moneys recovered under section 311(b)(6)(B) of the Clean Water Act are appropriated to the Trust Fund. These claims and moneys involve certain costs arising before the date of enactment of CERCLA.

eral revenue appropriations may be used for the payment of natural resource damage claims. CERCLA further provides that claims against the Hazardous Substance Response Trust Fund may be paid only out of the Fund. If, at any time, claims against the Fund exceed the balance available for payment of those claims, the claims are to be paid in full in the order in which they were finally determined.

The Trust Fund has authority to borrow for the purposes of paying response costs in connection with a catastrophic spill or paying natural resource damage claims. Outstanding advances at any time may not exceed estimated tax revenues for the succeeding 12 months; advances for paying natural resource damage claims may not exceed 15 percent of such revenues. All advances must be repaid by September 30, 1985.

The Hazardous Substance Response Trust Fund is managed by the Secretary of the Treasury, who is required to report annually to Congress on the financial condition and operations of the Fund.

Petroleum tax

Present law (sec. 4611 of the Code) imposes an excise tax (the "petroleum tax") of 0.79 cent per barrel on domestic crude oil and on petroleum products (including crude oil) entering the United States for consumption, use, or warehousing. The tax on domestic crude oil is imposed on the operator of any United States refinery receiving such crude oil, while the tax on imported petroleum products is imposed on the person entering the product into the United States for consumption, use, or warehousing. If crude oil is used in, or exported from, the United States before imposition of the petroleum tax, the tax is imposed on the user or exporter of the oil.

Domestic crude oil subject to tax includes crude oil condensate and natural gasoline, but not other natural gas liquids. Taxable crude oil does not include oil used for extraction purposes on the premises where it was produced, such as for powerhouse fuel or for reinjection as part of a tertiary recovery process. In addition, the term crude oil does not include synthetic petroleum (e.g., shale oil, liquids from coal, tar sands, biomass, or refined oil).

Petroleum products which are subject to tax upon being entered into the United States include crude oil, crude oil condensate, natural and refined gasoline, refined and residual oil, and any other hydrocarbon product derived from crude oil or natural gasoline which enters the United States in liquid form. For purposes of determining whether crude oil or petroleum products (and chemicals subject to the feedstock tax) have been produced in, entered into, or exported from the United States, the term United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any possession of the United States. The United States also includes the Outer Continental Shelf areas and foreign trade zones located within the United States. There is no exception for bonded petroleum products. Revenues from the petroleum tax are not paid to Puerto Rico or the Virgin Islands under the cover over provisions of section 7652 of the Code.

Present law specifies that the petroleum tax (under Code section 4611) is to be imposed only once with respect to any petroleum

product. Thus, anyone who is otherwise liable for the tax may avoid payment by establishing that the tax already has been imposed with respect to that product.

Amounts equivalent to the revenues from the petroleum tax are deposited in the Hazardous Substance Response Trust Fund.

The petroleum tax is scheduled to expire under present law on September 30, 1985. Present law also provides that if on September 30, 1983, or September 30, 1984, (1) the unobligated balance in the Hazardous Substance Response Trust Fund exceeds $900 million and (2) the Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $500 million on September 30 of the following year if no tax is imposed under section 4611 (relating to the petroleum tax) or section 4661 (relating to the tax on feedstock chemicals) of the Code during the calendar year following the first date referred to above, then no tax is to be imposed during the first calendar year beginning after the first date referred to above. (As of September 30, 1983, the unobligated balance in the Hazardous Substance Response Trust Fund was approximately $332.8 million.) Further, the authority to collect the tax would terminate when cumulative receipts from the petroleum and chemical taxes reach $1.38 billion (sec. 303 of CERCLA).

Tax on feedstock chemicals

Present law (sec. 4661 of the Code) also imposes a tax on the sale or use of 42 specified chemical substances ("feedstock chemicals") by the manufacturer, producer, or importer thereof. These chemicals generally are hazardous substances or may create hazardous products or wastes when used. The tax is imposed on feedstock chemicals manufactured in the United States or entered into the United States for consumption, use, or warehousing. The tax rates are specified per ton of taxable chemical, and vary from 22 cents to $4.87 per ton. In the case of a taxable chemical which is a gas (e.g., methane), the tax is imposed on the number of cubic feet of such gas which is equivalent to 2,000 pounds on the basis of molecular weight. (See table 1, below, for a list of taxable chemicals and applicable tax rates.)

Present law provides six exemptions from the tax on feedstock chemicals. Under one exemption, in the case of butane and methane, the tax is imposed only if those substances are used other than as a fuel (in which case the person so using them is treated as the manufacturer). A second exemption is provided for nitric acid, sulfuric acid or ammonia (or methane used to produce ammonia) which are used in the manufacture or production of fertilizer or are directly applied as fertilizer. Third, present law also provides an exemption for sulfuric acid produced solely as a byproduct of (and on the same site as) air pollution control equipment. The fourth exemption is for any substance to the extent the substance is derived from coal.

The Tax Reform Act of 1984 (P.L. 98-369), added two exemptions to the tax on feedstock chemicals. First, the 1984 Act provided an exemption for petrochemicals otherwise subject to the tax (i.e., acetylene, benzene, butane, butylene, butadiene, ethylene, methane, naphtalene, propylene, toluene, and xylene) which are used for

the manufacture or production of motor fuel, diesel fuel, aviation fuel, or jet fuel. (The petroleum tax will continue to apply to domestic crude oil or imported petroleum products used for these purposes.) This exception applies if the otherwise taxable substance is (1) added to a qualified fuel, (2) used to produce another substance that is added to a qualified fuel, or (3) sold for either of the uses described in (1) or (2), above. Second, the 1984 Act provides that the transitory existence of cupric sulfate, cupric oxide, cuprous oxide, zinc chloride, zinc sulfate, barium sulfide or lead oxide during a metal refining process will not be subject to tax if the compound exists in the process of converting or refining non-taxable metal ores or compounds into other (or more pure) non-taxable compounds. (If a substance is removed in the refining process, tax will be imposed even if the substance is later reintroduced to the refining process.) [2] These provisions are effective as if enacted as part of CERCLA.

Under present law, if a taxpayer uses a taxable chemical prior to any sale, the tax is imposed as if the chemical had been sold. Where a taxable chemical is used to manufacture or produce a second taxable chemical, an amount equal to the tax paid on the first chemical is allowed as a credit or refund (without interest) to the manufacturer or producer of the second chemical (but not in an amount exceeding the tax imposed on the second chemical). Thus, the imposition of tax more than once on the same substance is avoided.

Amounts equivalent to the revenues from the tax on feedstock chemicals are deposited in the Hazardous Substance Response Trust Fund.

The tax on feedstock chemicals is scheduled to expire, together with the petroleum tax, on September 30, 1985, with a provision for earlier termination if the unobligated balance in the Hazardous Substance Response Trust Fund exceeds $900 million (see description under petroleum tax). Further, the authority to collect the tax would terminate when cumulative receipts from the petroleum and chemical taxes reach $1.38 billion (sec. 303 of CERCLA).

2. Post-closure Tax and Trust Fund

Post-closure Liability Trust Fund

In addition to the Hazardous Substance Response Trust Fund, CERCLA established the Post-closure Liability Trust Fund in the United States Treasury. The Post-closure Liability Trust Fund is to assume completely the liability, under any law (including the liability provisions of CERCLA), of owners and operators of hazardous waste disposal facilities granted permits and properly closed under subtitle C of the Resource Conservation and Recovery Act

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[2] In proposed regulations dated October 20, 1983, the Treasury Department took the position that (1) the addition of substances (such as toluene) to gasoline or the use of a light hydrocarbon stream containing taxable chemicals (such as benzene, toluene, or xylene) to make gasoline was subject to tax as a use of feedstock chemicals, and (2) the creation of a metal compound (such as cupric sulfate or similar substances) in a metal refining process would give rise to a tax on use when that substance is consumed in the refining process. The 1984 Act effectively overruled this portion of the proposed regulations.

(RCRA), Title II of the Solid Waste Disposal Act.[3] This transfer of liability to the Trust Fund may take place after (1) the owner and operator of the facility has complied with the requirements under RCRA which may affect the performance of the facility after closure, (2) the facility has been closed in accordance with the regulations and the conditions of the permit, and (3) the facility has been monitored (as required by the regulations and permit) for a period not to exceed 5 years after closure to demonstrate that there is no substantial likelihood that any migration offsite or release from confinement of any hazardous substance or other risk to public health or welfare will occur (sec. 107(k) of CERCLA). The transfer of liability is to be effective 90 days after the owner or operator of the facility notifies the Administrator of the Environmental Protection Agency (and the State if it has an authorized program) that the required conditions have been satisfied. No liabilities have been transferred to the Post-closure Trust Fund under present law. In addition to payment of damages and cleanup expenses for such sites, the Trust Fund also may be used to pay costs of monitoring and care and maintenance of a site incurred by other persons after the period of monitoring required by RCRA for facilities meeting the applicable transfer of liability requirements. The Post-closure Trust Fund does not assume the legal liability of waste generators or transporters.

As in the case of the Hazardous Substance Response Trust Fund, claims against the Post-closure Liability Trust Fund may be paid only out of the Fund. If, at any time, claims against the Fund exceed the balance available for payment of those claims, the claims are to be paid in full in the order in which they are finally determined.

The Post-closure Liability Trust Fund is subject to the same administrative provisions as the Hazardous Substance Response Trust Fund, including the right to borrow limited amounts from the Treasury as repayable advances. No more than $200 million of such advances to the Post-closure Liability Trust Fund may be outstanding at any time.

Tax on hazardous wastes

Present law (sec. 4681 of the Code) imposes an excise tax (the "post-closure tax") of $2.13 per dry weight ton on the receipt of hazardous waste at a qualified hazardous waste disposal facility. The tax applies only to hazardous waste which will remain at the facility after the facility is closed. The tax is imposed on the owner or operator of the qualified hazardous waste disposal facility. It was intended that amounts equivalent to the revenues from this tax were to be deposited into the Post-closure Liability Trust Fund.

For purposes of the post-closure tax, the term hazardous waste means any waste (1) having the characteristics identified under section 3001 of the Solid Waste Disposal Act, as in effect on December 11, 1980 (other than waste the regulation of which had been sus-

[3] The Resource Conservation and Recovery Act (RCRA) provides for the regulation and control of operating hazardous waste disposal facilities, as well as the transportation, storage, and treatment of these wastes. Permits generally are required under RCRA for hazardous waste treatment, storage, or disposal facilities.

pended by Congress on that date), and (2) which is subject to reporting and recordkeeping requirements under the Solid Waste Disposal Act as in effect on that date. Qualified hazardous waste disposal facilities are facilities which have received a permit or been accorded interim status under the Solid Waste Disposal Act.

The post-closure tax applies to the receipt of hazardous waste after September 30, 1983. However, if as of September 30 of any subsequent calendar year, the unobligated balance of the Post-closure Liability Trust Fund exceeds $200 million, no tax is to be imposed during the following calendar year. Further, authority to collect the tax would terminate when cumulative receipts from the petroleum and chemical taxes described in the previous section reach $1.38 billion, or, if earlier, after September 30, 1985 (sec. 303 of CERCLA).

B. Reasons for Change

In 1980, Congress created a major Federal program to clean up the worst abandoned waste sites in the country by enacting CERCLA. CERCLA provided a five-year, $1.6 billion program of which 87.5 percent was financed by excise taxes on petroleum and specified chemicals, and 12.5 percent was authorized to be appropriated from general revenues. The goal of the legislation was to provide start-up funding for the cleanup of hazardous waste sites. CERCLA provided for the termination of the petroleum and the feedstock taxes on September 30, 1985. It was intended that the fund would be supplemented through enforcement and cost recovery actions against responsible parties.

It is clear that the current Superfund program, will not be adequate to achieve the goals of the 1980 Act. Moreover, title I of H.R. 5640 would establish a mandatory schedule for the cleanup of hazardous waste sites, mandate stringent cleanup standards, provide for response to releases of petroleum and petroleum products, and require certain health effect, toxicological profile, and hazard evaluation studies. The committee has reported an amendment to the revenue title of H.R. 5640 providing $10.1 billion of funding which, in the committee's judgment, will be necessary to finance the cost of carrying out the expanded Superfund program.

In financing the substantial increase in the Superfund program, the committee intends to raise revenues in an equitable manner, to broaden the tax base, and to limit adverse economic impacts. First the committee has increased the general revenue share of the Superfund to 23 percent from the 12.5 percent in current law. Increased general revenue financing is appropriate because responsibility for abandoned waste sites partially falls outside of the industries which pay the petroleum and feedstock taxes.

Second, the committee has broadened the base of the feedstock tax by adding 15 chemical feedstocks, based on data indicating the presence of these chemicals, or their derivatives, at hazardous waste sites. Feedstock chemicals derived from coal were also included in the tax base. These additions were intended to spread the burden of the feedstock tax more equitably. The committee decided not to reduce the feedstock tax base by exempting, or reducing the tax rate, on recycled metals. While the committee recognizes the

importance of encouraging environmentally safe recycling, at least 17 hazardous waste sites are known to be attributable to recycling operations. By taxing recycled and newly produced feedstocks at the same rate, the bill equitably imposes the tax upon all manufacturers and users of the listed chemicals.

Third, the committee limited the impact of the feedstock tax by imposing a ceiling on chemical tax rates of 1.5 percent of estimated wholesale price in 1985, phasing up to 3 percent in 1988-90. While the committee recognizes that, in some cases, it may be difficult for chemical producers to pass on the feedstock tax, it was anticipated that limiting the excise tax to a gradually increasing portion of estimated (pre-tax) price would minimize any adverse impact on the chemical industry. The committee also imposed a cap of $30 per ton on the chemical tax rates; this was done because a number of inorganic feedstock chemicals are very expensive, as a result of relative scarcity, and thus a tax based on price would have collected too much revenue from these expensive chemicals relative to their contribution to hazardous waste sites. In addition, the feedstock tax rates were indexed to suitable components of the producer price index so that future changes in chemical prices will not change the relative tax burden over time.

Fourth, the committee exempted exports from the excise tax on chemical feedstocks. This was intended to limit any adverse trade effects of the tax on the chemical industry. As under current law, imports of feedstocks are subject to tax, as are imports of petroleum and petroleum products, but imports of derivatives produced from taxed feedstocks are not subject to tax. The committee recognizes that raising the excise tax on chemical feedstocks may allow some advantage to foreign producers of chemical derivatives. However, the committee was concerned that a tax on imported chemical derivatives might be extremely complex to administer and might be in violation of the General Agreement on Trade and Tariffs (GATT). Also, the committee was uncertain about which derivatives should be taxed and how the chemical composition of imported derivatives should be determined, for purposes of taxing the feedstock content of these products. Thus, the committee has directed the Treasury Department, in consultation with the International Trade Commission, to complete a study of alternatives for taxing imported chemical derivatives by April 1, 1985.

The committee also directed the Secretary of the Treasury, in consultation with the Environmental Protection Agency (EPA) and the International Trade Commission, to make legislative recommendations regarding a Federal tax on hazardous waste disposal by April 1, 1985. In principle, a disposal tax would be appropriate to provide revenue for the Superfund program, since it would directly tax many of the materials found at hazardous waste sites. Also, a disposal tax could create economic incentives for reducing the generation of hazardous wastes and increasing the use of desirable treatment and recycling processes. The committee amendment provides that if a waste end tax is enacted by July 1, 1986, then additional scheduled increases in the excise taxes on petroleum and chemical feedstocks, estimated to raise $1.2 billion over the 1987 to 1990 period, will not take effect on January 1, 1987. Thus, revenues

from the waste end tax would reduce the economic burden of the feedstock tax.

The committee agreed to study, rather than enact, a disposal tax at this time because it was recognized that an improperly designed tax system might have harmful economic and environmental impacts and, according to the Treasury Department, could be difficult and expensive to administer. There was also concern that, given the present state of knowledge of the subject area, a disposal tax might not be a stable revenue source for financing the Superfund program. The committee was further concerned that exemptions from an improperly designed waste end tax for treatment and recycling processes might be abused, and could create an economic incentive for taxpayers to use environmentally damaging "treatment" technologies. It is the committee's understanding that detailed, performance standard regulations do not exist for most treatment and recycling processes, and that the regulatory distinctions between treatment, storage, and disposal are somewhat vague. The committee was also concerned that a waste end tax, like the chemical feedstock tax, could raise the cost of manufacturing certain products in the United States which could effectively tax exports and subsidize imports of these products. However, unlike the feedstock tax, the economic burden of a waste end tax might not be limited to a small percentage of production cost, and could have an adverse effect on the U.S. trade balance.

In addition, the committee had questions regarding the administration of a waste end tax and its relationship to the hazardous waste regulatory system under the Resource Conservation and Recovery Act (RCRA). RCRA was designed to regulate the handling of hazardous wastes rather than as a framework for taxing waste disposal. Reporting and recordkeeping requirements under RCRA may not be adequate for taxing long-term waste storage or on-site disposal. Moreover, a number of States are authorized to implement the RCRA regulatory program in place of the EPA. Thus certain wastes may be considered hazardous in some but not all States, and the distinctions between treatment, storage, and disposal may vary between States. Also, some States currently impose their own waste end taxes, and might be preempted from raising additional revenues from this tax base. Another concern raised before the committee was that the imposition of a disposal tax might create a disincentive for complying with the RCRA regulations, and penalize waste generators, transporters, and disposers who accurately report and properly dispose of wastes. It has been argued that the imposition of a waste end tax would be counterproductive if it resulted in an increase in "midnight" dumping and other illegal disposal practices.

The committee expects that the Treasury Department, with assistance from the EPA and the International Trade Commission, will design a workable waste end tax which avoids the problems that have been brought to the committee's attention. The committee anticipates that the experience of the States which have implemented waste end taxes will provide information useful to the design of a Federal tax.

In addition to addressing the financing of the Superfund program, the committee also examined the uses of the Fund. Under

current law, fund receipts may be used for the payment of natural resource damage claims filed with respect to State and Federal property. The committee decided that no portion of Superfund revenues should be used for the payment of such claims. Superfund revenues used to pay damage claims are diverted from the cleanup of the nation's worst abandoned hazardous waste sites, which is the primary objective of the Superfund program. Also, the committee was concerned that the Superfund might not be able to satisfy current and future damage claims.

The committee decided to repeal the Post-closure Liability Trust Fund and to refund taxes paid into this Trust Fund. The committee is concerned that the post-closure fund could be presented with claims far exceeding its available balance, and that the Trust Fund may provide inequitable coverage and could reduce incentives for maintaining high standards of hazardous waste disposal. The Fund provides coverage only for those facilities which, 5 years after closure, have not leaked and are not likely to leak in the future. Thus, victims who live near facilities which were poorly operated (and perhaps most likely to cause harm) would not be eligible for compensation from the Trust Fund. Facilities that pay the current post-closure tax may be ineligible for coverage, as a result of leaks within 5 years after closing; on the other hand, storage facilities which switch status to disposal facilities just prior to closure may be covered by the Trust Fund without ever paying the tax. Moreover, owners of hazardous waste facilities may design and operate facilities at a lower standard of safety knowing that the government will assume long-run liability for damages. Finally, the Trust Fund assumes the liability of the owners and operators of waste disposal facilities, but not of waste generators and transporters who may be held liable under the standards of strict joint and several liability provided in the bill.

C. Explanation of Provisions

1. The Hazardous Substance Superfund

The committee amendment redesignates the "Hazardous Substance Response Trust Fund" as the "Hazardous Substance Superfund", and continues and expands the Superfund by allocating to the fund amounts equivalent to the revenues derived from expanded taxes on petroleum and feedstock chemicals (discussed below). The committee amendment also authorizes general revenue appropriations to the fund of an additional $421 million for fiscal year 1986, $421 million for fiscal year 1987, $496 million for fiscal year 1988, $496 million for fiscal year 1989, and $496 million for fiscal year 1990 (an aggregate of $2.3 billion), plus, for each such fiscal year, an amount equal to the aggregate amount authorized but not yet appropriated for prior years. Combined tax and general revenues authorized to be appropriated to the Fund for the fiscal years 1985 through 1990 period are estimated to be $10.1 billion. Other amounts allocated to the fund under present law (including penalties, punitive damages, and amounts recovered on behalf of the fund) are not affected by the committee amendment.

Under the committee amendment, the expenditure purposes of the Superfund are amended to conform to the expanded list of

costs which may be incurred under section 111(c) of CERCLA, as amended by H.R. 5640 as reported by the Committee on Energy and Commerce.[4] These include costs incurred in connection with emergency relief and health effects studies; costs incurred in preparing toxicological profiles of certain hazardous substances; and costs incurred in evaluating potential hazards posed by facilities pursuant to petitions filed by any person. Under the committee amendment, fund amounts will no longer be available for the payment of damage claims for injury to, or destruction or loss of, natural resources owned or controlled by the Federal or State governments as a result of a release or threat of release of a hazardous substance, as presently authorized under section 111(a)(3) of CERCLA. Amounts in the Superfund may be used, under laws enacted after this bill, for a general purpose covered by sections 111(a) (1), (2), or (4) of CERCLA, as in effect or the date of enactment of this bill.

Under H.R. 5640 as reported by the Committee on Energy and Commerce, amounts in the Superfund are to be made available for cleanup actions in connection with leaking underground storage tanks that store petroleum or petroleum products. Amounts in the fund will also be available for expenditures incurred in connection with releases of petroleum (but not natural or synthetic gas) which may present a significant risk to human health. The committee amendment establishes a separate account in the Fund for these expenditures. The amount expended from the account may not exceed $850 million plus interest, recoveries, and fines and must be funded out of amounts appropriated from general revenue; no more than $850 million of such appropriations may be placed in the account through fiscal year 1990. This account will also have authority to borrow limited amounts from the primary fund. No revenues from the petroleum or feedstock taxes will be placed in this account other than through this borrowing authority. No fund amounts other than amounts in the special account may be expended for the purpose of responding to such releases of petroleum or petroleum products to which the Fund's authority applies as a result of the petroleum-related amendments of Title I of the bill unless such response also qualifies for fund expenditures under other provisions of CERCLA.

The committee amendment continues the present law provisions regarding administration of the Superfund, including the authorization to borrow limited amounts from the Treasury as repayble advances for the purpose of responding to catastrophic spills. Any such advances must be repaid before September 30, 1990. The committee amendment also transfers the trust fund provisions to the Internal Revenue Code; this is consistent with the committee's recent actions to consolidate various trust fund provisions in the Code but does not affect the committee's jurisdiction over these provisions.

These amendments are effective on January 1, 1985.

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[4] H.Rep. 98-890, Part 1, accompanying H.R. 5640, 98th Cong., 2d Sess. (July 16, 1984).

2. Tax Provisions

a. Excise tax on petroleum

The committee amendment increases the present law environmental excise tax on petroleum from 0.79 cents per barrel tax to 7.86 cents per barrel, effective January 1, 1985. This tax will apply through September 30, 1990. Thus, the amendment repeals the termination provisions of present law (sec. 4611(d)), which terminate the tax if the unobligated balance in the Hazardous Substance Response Trust Fund exceeds specified amounts. The amendment also repeals section 303 of CERCLA; that section provides for termination of the environmental excise taxes when aggregate taxes collected exceed $1.38 billion.

The petroleum tax will increase to 9.65 cents per barrel if a tax on the disposal of hazardous substances ("waste-end tax"), has not been enacted by July 1, 1986. This increase in the petroleum tax rate would be effective on January 1, 1987.

b. Excise tax on feedstock chemicals

The committee amendment extends and expands the present law environmental excise tax on feedstock chemicals. In particular, the amendment provides that specified organic and inorganic substances sold by the manufacturer, producer, or importer will be taxed in accordance with the following table:

Table 1.—Comparison of Rates on Feedstock Chemicals Under Present Law and the Committee Amendment

[Dollars per ton]

Chemical	Present law	Committee amendment			
		1985	1986	1987	1988 and thereafter
Organic substances					
Acetylene	4.87	29.91	30.00	30.00	30.00
Benzene	4.87	6.60	8.80	9.90	13.20
Butadiene	4.87	9.79	13.05	14.69	19.58
Butane	4.87	4.87	5.60	6.30	8.40
Butylene	4.87	5.15	6.87	7.73	10.30
Coal-derived light oils	0	5.02	6.69	7.53	10.04
Coal tars	0	1.78	2.37	2.67	3.56
Ethylene	4.87	6.89	9.19	10.33	13.78
Methane	3.44	3.44	3.44	3.44	4.00
Napthalene	4.87	6.89	9.19	10.33	13.78
Propylene	4.87	5.87	7.83	8.80	11.74
Toluene	4.87	5.19	6.92	7.78	10.38
Xylene	4.87	10.65	14.05	16.75	[1] 22.33
Inorganic substances					
Aluminum sulfate	0	3.52	4.69	5.28	7.04

Table 1.—Comparison of Rates on Feedstock Chemicals Under Present Law and the Committee Amendment—Continued

[Dollars per ton]

Chemical	Present law	Committee amendment			
		1985	1986	1987	1988 and thereafter
Aluminum phosphide	0	30.00	30.00	30.00	30.00
Ammonia	2.64	2.64	3.52	3.96	5.28
Antimony	4.45	30.00	30.00	30.00	30.00
Antimony trioxide	3.75	30.00	30.00	30.00	30.00
Arsenic	4.45	30.00	30.00	30.00	30.00
Arsenic trioxide	3.41	12.97	17.29	19.46	25.94
Asbestos	0	5.76	7.68	8.64	11.52
Barium sulfide	2.30	7.13	9.51	10.70	14.26
Bromine	4.45	9.73	12.97	14.59	19.46
Cadmium	4.45	30.00	30.00	30.00	30.00
Chlorine	2.70	3.05	4.07	4.57	6.10
Chromite	1.52	1.52	1.52	1.52	1.70
Chromium	4.45	30.00	30.00	30.00	30.00
Cobalt	4.45	30.00	30.00	30.00	30.00
Copper	0	23.60	30.00	30.00	30.00
Cupric oxide	3.59	30.00	30.00	30.00	30.00
Cupric sulfate	1.87	23.18	30.00	30.00	30.00
Cuprous oxide	3.97	30.00	30.00	30.00	30.00
Hydrochloric acid	.29	.94	1.25	1.41	1.88
Hydrogen fluoride	4.23	23.50	30.00	30.00	30.00
Lead	0	8.27	11.03	12.41	16.54
Lithium carbonate	0	30.00	30.00	30.00	30.00
Manganese	0	22.69	30.00	30.00	30.00
Mercury	4.45	30.00	30.00	30.00	30.00
Nickel	4.45	30.00	30.00	30.00	30.00
Nitric acid	.24	3.05	4.07	4.57	6.10
Phosphoric acid	0	7.65	10.20	11.48	15.30
Phosphorous	4.45	6.65	6.65	6.65	6.65
Potassium dichromate	1.69	15.03	20.04	22.54	30.00
Potassium hydroxide	.22	9.83	13.11	14.75	19.66
Selenium	0	30.00	30.00	30.00	30.00
Sodium dichromate	1.87	18.48	24.64	27.72	30.00
Sodium hydroxide	.28	2.82	3.76	4.23	5.64
Stannic chloride	2.12	30.00	30.00	30.00	30.00
Stannous chloride	2.85	30.00	30.00	30.00	30.00
Sulfuric acid	.26	.78	1.04	1.17	1.56
Uranium oxide	0	30.00	30.00	30.00	30.00
Vanadium	0	30.00	30.00	30.00	30.00
Zinc	0	12.48	16.64	18.72	24.96
Zinc chloride	2.22	10.55	14.07	15.83	21.10
Zinc oxide	0	14.43	19.24	21.65	28.86

Table 1.—Comparison of Rates on Feedstock Chemicals Under Present Law and the Committee Amendment—Continued

[Dollars per ton]

Chemical	Present law	Committee amendment			
		1985	1986	1987	1988 and thereafter
Zinc sulfate.....	1.90	8.30	11.07	12.45	16.60

[1] Rate drops to $15.40 for 1989 and 1990.

For each year, the rates specified in the table are to be adjusted for inflation. In the case of organic substances, the inflation adjustment for any year is to be the percentage by which the average producer price index for basic organic chemicals of the Bureau of Labor Statistics, for the 12-month period ending in September of the preceding year, exceeds the comparable average of the index for the 12 months ending in September, 1984. In the case of inorganic substances, the inflation adjustment for any year is to be the percentage by which the average producer price index for basic inorganic chemicals for the 12-month period ending in the preceding September exceeds the comparable average for the 12 months ending in September, 1984. Tax rates will not be reduced below the levels shown in Table 1 even if the producer price index declines; however, if this occurs, the committee expects to consider whether such a reduction is appropriate.

The rates provided for in the committee amendment generally were determined by taxing each substance at the lesser of $30 per ton or a specified percentage of its estimated 1985 selling price. The percentages used for this purpose were 1.5 percent in 1985, 2 percent in 1986, 2.25 percent in 1987, and 3 percent in 1988 and subsequent years. The substances subject to the environmental excise tax are substances which have been found at waste sites, which are feedstocks used in producing substances found at those sites, or which generate hazardous wastes in the manufacture of the taxable substances or products derived therefrom.

The committee amendment repeals the present law exemption for coal-derived substances because the committee believes that the taxes used to fund the Superfund should not be reduced to create incentives for particular activities. Rather, the committee believes that the environmental taxes should fall equally on all competing feedstock chemicals. This belief also led the committee to reject a reduced rate for recycled metals.

The committee has addressed a technical problem under present law concerning the appropriate point at which to levy the tax on the production of xylene. For purposes of this tax, xylene includes separated isomers of xylene only in the case of imported or exported xylene. The committee adopted this rule because it understands that the separated isomers of xylene (meta-xylene, ortho-xylene, and para-xylene) are isolated from a mixed stream of xylenes pro-

duced in a reformation process. Accordingly, separated isomers will have been previously taxed except when those separated isomers are imported; thus, the committee expects that no future loss of revenue will occur as a result of this provision. Because of confusion over the definition of xylene under present law, the committee amendment also repeals the present law tax on xylene for periods before January 1, 1985. Manufacturers, producers and importers of xylene who paid the tax under present law will be permitted to obtain a refund of those taxes together with interest. To offset the resulting loss to the Superfund, the tax rates on xylene shown in Tables 1 and 2 incorporate an increase over the rates that would otherwise apply, in order to recapture the tax liability that had been expected under present law for periods before 1985.

Exemptions

The committee amendment modifies the present law exception for specified nonferrous metallic compounds which have a transitory existence during metal refining or smelting processes to apply that rule to all metallic compounds rather than the six specified in present law. The committee amendment adopts this rule, in part, because additional metallic substances have been added to the list of taxable substances.

The committee amendment retains the present law exemptions for petrochemical feedstock substances used in the production of fertilizer and for sulfuric acid produced as a byproduct of pollution control equipment. A conforming amendment is made to the fertilizer exemption to reflect the addition of phosphoric acid to the list of taxable substances.

The committee amendment also provides that the environmental excise tax on feedstock chemicals is not to apply to feedstock chemicals that are exported from the United States. In particular, the amendment exempts from tax any taxable substance that is sold by the manufacturer or producer or for export or for resale to a second purchaser for export. If the purchaser cannot certify that the substance will be exported, or if a tax has otherwise been paid on the exported substance, the exporter may claim a refund or credit for the amount of the tax previously paid.

Generally, the amendments to the environmental excise tax on chemicals take effect on January 1, 1985. Under a transitional rule, the rates specified in present law for organic substances will continue to apply through 1987 to any company which had at least 100 employees who are owners of the company on August 1, 1984, if substantially all of the common stock of that company was owned by employees, officers, or directors, or their spouses, on that date, this stock ownership came about as a result of an employee buyout or purchase that occurred in December, 1983, and if the parent company has headquarters in Odessa, Texas. The present law rates are available only with respect to production from facilities which the company or subsidiary owned on August 1, 1984. This transitional rule will also apply to organic substances produced by subsidiaries owned by such a company on August 1, 1984.

Alternative tax rates if waste disposal tax not enacted

If a waste disposal tax is not enacted by July 1, 1986, increased tax rates on petroleum and feedstock substances will take effect on January 1, 1987. In this event, the petroleum tax will increase to 9.65 cents per barrel and the tax on feedstock substances will increase to the rates per ton indicated in the following table:

Table 2.—Feedstock Chemical Rates for 1987 Through 1990 if a Waste Disposal Tax Is Not Adopted

[Dollars per ton]

Chemical	1987	1988–89	1990
Organic substances			
Acetylene	35.00	35.00	35.00
Benzene	13.20	15.40	17.60
Butadiene	19.58	22.84	26.11
Butane	8.40	9.80	11.20
Butylene	10.30	12.02	13.73
Coal-derived light oils	10.04	11.71	13.39
Coal tars	3.56	4.15	4.75
Ethylene	13.78	16.08	18.37
Methane	4.00	4.67	5.33
Napthalene	13.78	16.08	18.37
Propylene	11.74	13.70	15.65
Toluene	10.38	12.11	13.84
Xylene	21.30	21.77	20.53
Inorganic substances			
Aluminum sulfate	7.04	8.21	9.35
Aluminum phosphide	35.00	35.00	35.00
Ammonia	5.28	6.16	7.04
Antimony	35.00	35.00	35.00
Antimony trioxide	35.00	35.00	35.00
Arsenic	35.00	35.00	35.00
Arsenic trioxide	25.94	30.26	34.59
Asbestos	11.52	13.44	15.36
Barium sulfide	14.26	16.64	19.01
Bromine	19.46	22.70	25.95
Cadmium	35.00	35.00	35.00
Chlorine	6.10	7.12	8.13
Chromite	1.70	1.98	2.27
Chromium	35.00	35.00	35.00
Cobalt	35.00	35.00	35.00
Copper	35.00	35.00	35.00
Cupric oxide	35.00	35.00	35.00
Cupric sulfate	35.00	35.00	35.00
Cuprous oxide	35.00	35.00	35.00
Hydrochloric acid	1.88	2.19	2.51
Hydrogen fluoride	35.00	35.00	35.00
Lead	16.54	19.30	22.05
Lithium carbonate	35.00	35.00	35.00

Table 2.—Feedstock Chemical Rates for 1987 Through 1990 if a Waste Disposal Tax Is Not Adopted—Continued

[Dollars per ton]

Chemical	1987	1988-89	1990
Manganese	35.00	35.00	35.00
Mercury	35.00	35.00	35.00
Nickel	35.00	35.00	35.00
Nitric acid	6.10	7.12	8.13
Phosphoric acid	15.30	17.85	20.40
Phosphorous	7.59	7.59	7.59
Potassium dichromate	30.06	35.00	35.00
Potassium hydroxide	19.66	22.94	26.21
Selenium	35.00	35.00	35.00
Sodium dichromate	35.00	35.00	35.00
Sodium hydroxide	5.64	6.58	7.52
Stannic chloride	35.00	35.00	35.00
Stannous chloride	35.00	35.00	35.00
Sulfuric acid	1.56	1.82	2.08
Uranium oxide	35.00	35.00	35.00
Vanadium	35.00	35.00	35.00
Zinc	24.96	29.12	33.28
Zinc chloride	21.10	24.62	28.13
Zinc oxide	28.86	33.67	35.00
Zinc sulfate	16.60	19.37	22.13

These rates were generally determined to equal the lesser of (1) a percentage of estimated 1985 selling price equal to 3 percent in 1987, 3.5 percent in 1988 and 1989, and 4 percent in 1990, and (2) a cap equal to $35 per ton. (The lesser $6.65 per ton rate for phosphorous also would be increased for each of these years). These rates (including the rate for phosphorous) are to be indexed for inflation under the method applicable to the pre-1987 tax.

The conditional increase of tax rates if a waste-end tax is not enacted is intended to compensate for the $1.2 billion in revenue which the committee anticipates will be raised, prior to September 30, 1990, by a waste disposal tax. Implementation of the alternative tax rates described above will not affect the exceptions to, or the termination date of, the petroleum or feedstock taxes.

c. Study of tax on imported chemical derivatives study

The committee amendment directs the Treasury Department, in consultation with the International Trade Commission, to submit to the Committee on Ways and Means by April, 1, 1985, a study of alternatives for taxing imported chemical derivatives. This study is to examine the probable economic effects of the increased feedstock tax on U.S. manufacturers of substances derived from taxed feedstocks. The study is to also address the legality of taxing imported derivatives under the General Agreement on Tariffs and Trade (GATT) Code. Finally, the study is to evaluate the administrative

feasibility of a tax on imported derivatives, including the substances that would be subject to the tax, the method for determining the tax rate on these substances and the mechanism for collecting and enforcing the tax.

d. Study of tax on disposal of hazardous wastes

The committee amendment requires the Secretary of the Treasury to submit to the Committee on Ways and Means and the Committee on Finance by April 1, 1985, proposals for a tax on the disposal of hazardous wastes. These proposals are to be presented in legislative form and are to be designed to discourage the disposal of hazardous wastes in environmentally unsound ways while achieving maximum administrative feasibility. The committee expects that in designing these proposals the Treasury Department will consult with the Environmental Protection Agency in choosing between alternative proposals which reflect different environmental objectives and with the International Trade Commission in studying the impact of a waste-end tax on the international competitive position of affected industries.

The committee is aware that the Environmental Protection Agency will be reporting on the desirability of a waste-end tax under the requirements of present law. The report which the committee amendment requires the Treasury Department to make is intended to be more detailed than that required under present law and to provide specific legislative language for Congressional consideration. The committee expects that the Treasury will address two overall issues in its report: the appropriateness of a waste-end tax and the best design for a waste-end tax.

With respect to the issue of whether a waste-end tax represents an appropriate tax and environmental policy, the report will analyze the effect of the waste-end tax on the relative burdens borne by various taxpayers contributing to the Superfund. For example, the committee will be interested in an analysis of the degree to which persons currently generating hazardous wastes are the same as, or different from, the persons who produced the wastes which are cleaned up under the Superfund program. The report will also address the trade and other economic effects of a waste-end tax and the appropriateness of using the tax system to provide incentives and disincentives for the handling, treatment, and disposal of hazardous wastes.

With respect to the design of the waste-end tax, the committee wishes the Treasury report to address (1) the event that should trigger imposition of the tax, (2) the substances that should be taxed, (3) the relationship of the tax to the regulatory requirements of RCRA, (4) the environmental incentives and disincentives that should be provided, and (5) the mechanism that should be used to enforce the tax.

During its consideration of the waste-end tax proposed by the Committee on Energy and Commerce, the Committee on Ways and Means concluded that further study was needed, particularly with respect to the issue of when a disposal tax should be imposed. For example, hazardous waste may be delivered to a regulated facility for storage, treatment, or disposal. The distinctions among these three activities under present law are not always clear. For exam-

ple, "land treatment" (i.e., placing liquid waste on the ground and allowing evaporation to occur so that the volume of waste is reduced) constitutes a disposal of hazardous waste under the statutory definition in the Solid Waste Disposal Act but may be regarded by potential taxpayers as long-term storage or treatment. The Treasury Department's report should examine the various storage, treatment, and disposal practices permitted under present law and should recommend which of those should give rise to a waste-end tax.

With respect to the definition of taxable substances, the Treasury should make recommendations both as to the particular substances that should be taxed (e.g., hazardous substances or only hazardous wastes) and the manner in which the amount of substance subject to tax should be computed (e.g., on a dry weight or wet weight basis).

The committee is aware that, under RCRA, State programs may be substituted for Federal regulation under certain conditions. The Treasury's report should address any impact which the presence of a different State regulatory program might have on the scope and enforcement of a waste-end tax.

One of the major concerns with a waste-end tax is that it not encourage environmentally inappropriate behavior and, to the extent possible, that it encourage environmentally desirable behavior. In this regard, the committee expects the Treasury Department to examine the possibility of providing exemptions for treatment processes (such as incineration) which destroy or neutralize hazardous wastes and lower rates for disposal methods which substantially reduce the environmental risks associated with the disposition of hazardous wastes. Conversely, the committee expects the Treasury to consider recommending disincentives for storage, treatment, or disposal practices which represent greater than normal environmental risks. The Treasury might conclude that such a disincentive is appropriate where a facility (i.e., a landfill) is located above a sole source aquifer or in a flood plain. Treasury also should consider whether and how the tax rates should be varied according to the degree of hazard posed by different wastes. In addition, the Treasury should consider whether a waste-end tax would encourage illegal disposal practices.

Finally, the report of the Treasury Department should analyze the enforcement and administrative considerations associated with a waste-end tax.

If a waste-end tax is enacted which raises $1.2 billion of revenue through 1990, it is intended that the rates shown in Table 1 should remain in effect. If less revenue is estimated to be raised, then the committee intends that rates between those in the two tables go into effect (with a similar adjustment to the petroleum tax). If an enacted waste-end tax raises more than this amount, then half the excess is to be used to make further reductions in the petroleum and feedstock taxes and the other half is to be used to increase the total amount of tax revenues made available to the Superfund.

3. Repeal of Post-closure Tax and Trust Fund

The committee amendment repeals the tax on hazardous wastes under section 4681 of the Code, effective on October 1, 1983, and

terminates the Post-closure Liability Trust Fund as of that date. Refunds, with interest, are to be made to taxpayers who paid taxes on hazardous wastes under section 4681.

III. BUDGET EFFECTS OF THE COMMITTEE AMENDMENT

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made about the effect on the budget of the provisions of the committee's amendment to H.R. 5640.

The following table shows the estimated revenue effect of all tax provisions in H.R. 5640 as amended by the Committee on Ways and Means. The proposed tax on crude oil and petroleum products is estimated to generate $2.761 billion in additional revenue during the fiscal year 1985–1991 period, while the taxes on chemical feedstocks are estimated to yield an additional $5.027 billion. The combined impact of these taxes is thus to increase projected Superfund tax receipts by $7.788 billion over that period. These estimates assume that the proposed waste-end tax, to be designed to raise $1.2 billion in revenue, will not be enacted. Should such a tax be enacted, there would be a corresponding reduction of approximately $0.36 billion in estimated receipts from the tax on crude oil and $0.84 billion from the taxes on chemical feedstocks. The repeal of the Post-closure Liability Trust Fund tax and the refunding of all taxes paid into that fund is estimated to result in a loss of $18 million in fiscal year 1985. As a consequence of the changes in excise taxes proposed in the committee amendment it is estimated that there will be a reduction over the period of $1.943 billion in income tax receipts, producing a total change in net budget receipts for the fiscal year 1985–1991 period of $5.827 billion.

Estimated Revenue Effects of All Tax Provisions in H.R. 5640, Fiscal Years 1985–91

[In millions of dollars]

Item	1985	1986	1987	1988	1989	1990	1991	1985–91
Crude oil tax	265	422	492	519	518	516	29	2,761
Chemical feedstock taxes	37	495	793	1,054	1,184	1,382	82	5,027
Total, Hazardous Substance Superfund tax receipts	302	917	1,285	1,573	1,702	1,898	111	7,788
Post-closure trust fund tax receipts	−18							−18
Change in income tax receipts	−71	−229	−321	−393	−426	−475	−28	−1,943
Net change in budget receipts	213	688	964	1,180	1,276	1,423	83	5,827

IV. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

A. Vote of the Committee

In compliance with clause 3(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made about the vote of the committee on the motion to report H.R. 5640, as amended. The bill, as amended by the committee, was ordered favorably reported by a roll call vote of 27 ayes and 5 noes.

B. Other Matters

In compliance with clauses 2(l)(3) and 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the action on H.R. 5640, as amended.

Oversight Findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the committee advises that it was a result of the committee's hearing and deliberation with respect to the proposed taxes and Fund included in the Superfund Expansion and Protection Act of 1984 as reported by the Committee on Energy and Commerce, that the committee concluded that it is appropriate to enact the provisions contained in the bill as amended. The committee held a public hearing on the subject on July 25, 1984, and approved the bill with a committee amendment on August 2, 1984.

Tax Expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the committee amendment involve no new or increased tax expenditures.

New Budget Authority

With respect to subdivision (B) of clause 2(1)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the committee amendment involves no new budget authority.

Consultation with Congressional Budget Office on Budget Estimates

With respect to subdivision (C) of clause 2(1)(3), the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as indicated in part III of this document) and agrees with the budget estimates. The Director submitted the following statement.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 6, 1984.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimates for H.R. 5640, the Superfund Expansion and Protection Act of 1984.

If you wish further details on this estimates, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 5640.
2. Bill title: Superfund Expansion and Protection Act of 1984.
3. Bill status: As ordered reported by the House Committee on Energy and Commerce, June 20, 1984, including Title V as ordered reported by the House Committee on Ways and Means, August 2, 1984.
4. Bill purpose: H.R. 5640 would reauthorize and amend the Comprehensive Evironmental Response, Compensation, and Liability Act of 1980 (CERCLA). This bill would mandate an expedited schedule for the Environmental Protection Agency (EPA) in completing work begun with the enactment of CERCLA. Emergency relief provisions of the bill would require the EPA to perform health effects studies in certain circumstances and, where there is significant risk to human health, to take such steps as providing alternative drinking water supplies and relocating affected individuals. The bill would create within the Superfund a separate account to be known as the Leaking Underground Storage Tank Account, to be funded with a maximum of $850 million from the Superfund.

Title II of H.R. 5640 would create a federal cause of action with respect to liability for damages resulting from the disposal of hazardous substances. Suits could be brought in either state or federal courts.

Title V of H.R. 5640, the Superfund Revenue Act of 1984, would amend the Internal Revenue Code of 1954 to extend and increase the excise tax on petroleum and extend, increase, expand the coverage of, and index for inflation the chemical feedstock taxes. The bill provides two separate rate schedules. The first becomes effective January 1, 1985. The second, higher rate schedule would become effective October 1, 1986 if no waste-end tax is enacted by July 1, 1986. Otherwise the lower schedule would be effective. The bill would repeal the post-closure tax and trust funds provisions of the 1980 act and require refunding of unobligated sums collected under those provisions. In addition, H.R. 5640 would mandate a Treasury study of a federal waste-end tax and a Treasury/International Trade Commission study of the administrative needs and economic effects of a tax on imported derivates of substances taxed by the act.

Finally, H.R. 5640 would authorize appropriations from the general fund of the Treasury of $421 million in each of the fiscal years 1986 and 1987 and $496 million in each of the fiscal years 1988, 1989, and 1990.

5. Estimated cost to the Federal Government:

[By fiscal years, in billions of dollars]

	1985	1986	1987	1988	1989	1990
Title 1						
Estimated Authorization Level	[1] 0.3	1.4	1.8	2.2	2.3	2.5
Estimated Outlays	[1] 0.1	0.7	1.2	1.7	2.1	2.3
Title 5						
Estimated Revenues:						
Receipts from Crude Oil and Feedstock Taxes	[2] 0.3	0.9	1.3	1.6	1.7	1.9
Less: Income Tax Offset	−0.1	−0.2	−0.3	−0.4	−0.4	−0.5
Net Revenues	0.2	0.7	1.0	1.2	1.3	1.4
Total Budget Impact						
Estimated Revenues	0.2	0.7	1.0	1.2	1.3	1.4
Estimated Authorization Level	0.3	1.4	1.8	2.2	2.3	2.5
Estimated Outlays	0.1	0.7	1.2	1.7	2.1	2.3

[1] Includes about $15 million to carry out Section 111 and approximately $9 million of interest on taxes collected on xylene that are refunded pursuant to Section 503.

[2] Includes revenue loss of approximately $58 million for refund of taxes collected on xylene and $18 million for repeal of the post-closure liability fund and taxes.

The above estimate does not include costs to the federal government of Title 2 (relating to federal cause of action). Potential impacts include an increase in the caseload of federal courts if litigation is encouraged by this provision. At this time, it is impossible to determine the magnitude of such potential costs. Also, if the federal government were to be included as a liable party under Title 2, the cost to the federal government could be significant.

The costs of this bill fall primarily within budget function 300.

Basis of Estimate: For purposes of this estimate, it is assumed that H.R. 5640 will be enacted by October 1, 1984 and that the new tax schedule mandated by Section 503 will become effective on January 1, 1985. It is further assumed that the entire amounts estimated to be collected in taxes each year as well as the full amounts authorized for general fund appropriations are appropriated prior to the beginning of each fiscal year. The estimates of revenue effects that appear in the table were prepared by the staff of the Joint Committee on Taxation. CBO has reviewed and concurs with these estimates. The estimates assume that no waste-end tax will be enacted and consequently the higher feedstock and crude oil rate schedule will go into effect. Repeal of the Post-Closure Liability Trust Fund will result in a loss of approximately $18 million in fiscal year 1985. The income tax offset shown in the table repre-

sents the estimated reduction in income tax payments resulting from the deductibility of these excise taxes.

The EPA estimates that the cost of carrying out the requirements of H.R. 5640 would be approximately $13 billion over the period 1985–1990. CBO has limited estimated authorization levels to the gross amounts collected as taxes and recoveries or otherwise authorized by the bill. Included in the estimate of authorization levels are cost recoveries derived from CBO baseline projections. Estimated outlays from the fund are based on these amounts. In all cases, estimates are based on the assumption that the EPA will be able to hire, purchase or otherwise contract for the qualified personnel and technical resources that will be required to carry out the provisions of H.R. 5640.

6. Estimated cost to State and local governments: H.R. 5640 would amend Section 104 of the 1980 act by reducing the states' share of long-term operating and maintenance costs at disposal facilities from 100 percent to 10 percent. It is estimated that this provision could save the states approximately $200 million a year once the 546 facilities currently on the National Priorities List are operational. Savings will be considerably less in the next few years, until more sites have been completed. The states' share of remedial action costs at facilities that they own but do not operate would fall from at least 50 percent to 10 percent. Credits would be granted to states for certain expenditures, including amounts in excess of 10 percent expended for actions at state-owned but not operated facilities prior to enactment of this bill.

Section 118 of the bill would effectively repeal the provision of current law that preempts state taxing authority. This provision would enable states to impose any type of taxes necessary for purposes of meeting the state share of clean-up costs. It is not considered likely that states will impose new taxes because of H.R. 5640 (some already have such taxes); however, this provision will confirm that states having already imposed their own waste-end taxes will be able to continue them in the event that a federal waste-end tax is imposed in the future.

Section 101 of the bill would impose standards on the selection of remedial actions that apply the most stringent criteria imposed by other federal laws to clean-up sites. Where this mandatory standard results in higher clean-up costs, the amount paid by the states will be correspondingly higher.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 28, 1984, the Congressional Budget Office prepared a cost estimate for H.R. 5640, as ordered reported by the House Committee on Energy and Commerce, June 20, 1984. The tax provisions of that version of the bill differ from those ordered reported by the Committee on Ways and Means, and this cost estimate reflects those differences.

9. Estimate prepared by: Deb Reis and Steve Porter.

10. Estimate approved by: C. A. Nichols (for James L. Blum, Assistant director for Budget Analysis).

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(l)(3), the committee advises that no oversight findings or recommendations have been sub-

mitted to the committee by the Committee on Government Operations regarding the subject matter of the committee amendment.

Inflationary Impact

In compliance with clause 2(l)(4), the committee states that the enactment of the committee amendment is not expected to have a significant inflationary impact on prices and costs in the operation of the national economy.

The committee amendment increases the existing excise tax on crude oil, specified petrochemical feedstocks, and specified inorganic substances, and expands the chemical tax to certain additional chemicals. The revenues from these taxes are to be deposited into a revised Hazardous Substance Superfund to finance the costs of containing or cleaning up waste from inactive hazardous waste sites which are causing or threatening to cause harm to the environment.

Since these excise taxes are deductible for income tax purposes, the net impact on overall prices in the economy should be minimal. The increased costs attributable to the excise taxes will be relatively small in relation to the overall price of the taxed commodities, and will be offset in savings to the nation's environment and health from the cleaning up of hazardous wastes provided for under the Trust Fund.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by title V of the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

* * * * * * *

Subtitle D—Miscellaneous Excise Taxes

* * * * * * *

CHAPTER 38—ENVIRONMENTAL TAXES

SUBCHAPTER A. Tax on petroleum.
SUBCHAPTER B. Tax on certain chemicals.
[SUBCHAPTER C. Tax on hazardous wastes.]

Subchapter A—Tax on Petroleum

* * * * * * *

SEC. 4611. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax of [0.79 cents] *7.86 cents* a barrel on—

(1) crude oil received at a United States refinery, and

(2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) TAX ON CERTAIN USES AND EXPORTATION.—

(1) IN GENERAL.—If—

(A) any domestic crude oil is used in or exported from the United States, and

(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a).

then a tax of [0.79 cents] *7.86 cents* a barrel is hereby imposed on such crude oil.

(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

The following amendment to section 4611 (amended by section 502 of H.R. 5640) which strikes out "7.86 cents" and inserts "9.65

cents" shall take effect only if a Federal waste-end tax is not enacted before July 1, 1986, and if such tax is not enacted before such date, shall take effect on January 1, 1987.

SEC. 4611. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax of [7.86 cents] *9.65 cents* a barrel on—

(1) crude oil received at a United States refinery, and

(2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) TAX ON CERTAIN USES AND EXPORTATION.—

(1) IN GENERAL.—If—

(A) any domestic crude oil is used in or exported from the United States, and

(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a).

then a tax of [7.86 cents] *9.65 cents* a barrel is hereby imposed on such crude oil.

(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

(c) PERSONS LIABLE FOR TAX.—

(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsection (a)(I) shall be paid by the operator of the United States refinery.

(2) IMPORTED PETROLEUM PRODUCT.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

[(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1985, except that if on September 30, 1983, or September 30, 1984—

[(1) the unobligated balance in the Hazardous Substance Response Trust Fund as of such date exceeds $900,000,000, and

[(2) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $500,000,000 on September 30 of the following year if no tax is imposed under section 4611 or 4661 during the calendar year following the date referred to above,

then no tax shall be imposed by this section during the first calendar year beginning after the date referred to in paragraph (1).]

(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

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Subchapter B—Tax on Certain Chemicals

* * * * * * *

SEC. 4661. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

In the case of:	The tax is the following amount per ton
Acetylene	$4.87
Benzene	4.87
Butane	4.87
Butylene	4.87
Butadiene	4.87
Ethylene	4.87
Methane	3.44
Naphthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	4.87
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromium	4.45
Chromite	1.52
Potassium dichromate	1.69
Sodium dichromate	1.87
Cobalt	4.45
Cupric sulfate	1.87
Cupric oxide	3.59
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorus	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	0.22
Sodium hydroxide	0.28
Sulfuric acid	0.26
Nitric acid	0.24

In the case of:	The tax (before any inflation adjustment) is the following amount per ton:			
	Sales during 1985	Sales during 1986	Sales during 1987	Sales during 1988 and thereafter until the termination date
Organic substances				
Acetylene	$29.91	$30.00	$30.00	$30.00
Benzene	6.60	8.80	9.90	13.20
Butadiene	9.79	13.05	14.69	19.58
Butane	4.87	5.60	6.30	8.40
Butylene	5.15	6.87	7.73	10.30
Coal-derived light oils	5.02	6.69	7.53	10.04
Coal tars	1.78	2.37	2.67	3.56
Ethylene	6.89	9.19	10.33	13.78
Methane	3.44	3.44	3.44	4.00
Naphthalene	6.89	9.19	10.33	13.78
Propylene	5.87	7.83	8.80	11.74
Toluene	5.19	6.92	7.78	10.38
Xylene (before 1989)	10.65	14.05	16.75	22.35
Xylene (after 1988)				15.40
Inorganic substances				
Aluminum sulfate	3.52	4.69	5.28	7.04
Aluminum phosphide	30.00	30.00	30.00	30.00
Ammonia	2.64	3.52	3.96	5.28
Antimony	30.00	30.00	30.00	30.00
Antimony trioxide	30.00	30.00	30.00	30.00
Arsenic	30.00	30.00	30.00	30.00
Arsenic trioxide	12.97	17.29	19.46	25.94
Asbestos	5.76	7.68	8.64	11.52
Barium sulfide	7.13	9.51	10.70	14.26
Bromine	9.73	12.97	14.59	19.46
Cadmium	30.00	30.00	30.00	30.00
Chlorine	3.05	4.07	4.57	6.10
Chromite	1.52	1.52	1.52	1.70
Chromium	30.00	30.00	30.00	30.00
Cobalt	30.00	30.00	30.00	30.00
Copper	23.60	30.00	30.00	30.00
Cupric oxide	30.00	30.00	30.00	30.00
Cupric sulfate	23.18	30.00	30.00	30.00
Cuprous oxide	30.00	30.00	30.00	30.00
Hydrochloric acid	0.94	1.25	1.41	1.88
Hydrogen fluoride	23.50	30.00	30.00	30.00
Lead	8.27	11.03	12.41	16.54
Lithium carbonate	30.00	30.00	30.00	30.00
Manganese	22.69	30.00	30.00	30.00
Mercury	30.00	30.00	30.00	30.00
Nickel	30.00	30.00	30.00	30.00
Nitric acid	3.05	4.07	4.57	6.10

In the case of:	*The tax (before any inflation adjustment) is the following amount per ton:*			
	Sales during 1985	*Sales during 1986*	*Sales during 1987*	*Sales during 1988 and thereafter until the termination date*
Phosphoric acid	*7.65*	*10.20*	*11.43*	*15.30*
Phosphorous	*6.65*	*6.65*	*6.65*	*6.65*
Potassium dichromate	*15.03*	*20.04*	*22.54*	*30.00*
Potassium hydroxide	*9.83*	*13.11*	*14.75*	*19.66*
Selenium	*30.00*	*30.00*	*30.00*	*30.00*
Sodium dichromate	*18.48*	*24.64*	*27.72*	*30.00*
Sodium hydroxide	*2.82*	*3.76*	*4.23*	*5.64*
Stannic chloride	*30.00*	*30.00*	*30.00*	*30.00*
Stannous chloride	*30.00*	*30.00*	*30.00*	*30.00*
Sulfuric acid	*0.78*	*1.04*	*1.17*	*1.56*
Uranium oxide	*30.00*	*30.00*	*30.00*	*30.00*
Vanadium	*30.00*	*30.00*	*30.00*	*30.00*
Zinc	*12.48*	*16.64*	*18.72*	*24.96*
Zinc chloride	*10.55*	*14.07*	*15.83*	*21.10*
Zinc oxide	*14.43*	*19.24*	*21.65*	*28.86*
Zinc sulfate	*8.30*	*11.07*	*12.45*	*16.60*

The following amendment to section 4661 (amended by section 503 of H.R. 5640) which strikes out the table contained in subsection (b) and inserts a new table shall take effect only if a Federal waste-end tax is not enacted before July 1, 1986, and if such tax is not enacted before such date, shall take effect on January 1, 1987.

In the case of:	The tax (before any inflation adjustment is the following amount per ton:			
	Sales during 1985	Sales during 1986	Sales during 1987	Sales during 1988 and thereafter until the termination date
Organic substances				
Acetylene	$29.91	$30.00	$30.00	$30.00
Benzene	6.60	8.80	9.90	13.20
Butadiene	9.79	13.05	14.69	19.58
Butane	4.87	5.60	6.30	8.40
Butylene	5.15	6.87	7.73	10.30
Coal-derived light oils	5.02	6.69	7.53	10.04
Coal tars	1.78	2.37	2.67	3.56
Ethylene	6.89	9.19	10.33	13.78
Methane	3.44	3.44	3.44	4.00

In the case of:	The tax (before any inflation adjustment is the following amount per ton: Sales during 1985	Sales during 1986	Sales during 1987	Sales during 1988 and thereafter until the termination date
Naphthalene	6.89	9.19	10.33	13.78
Propylene	5.87	7.83	8.80	11.74
Toluene	5.19	6.92	7.78	10.38
Xylene (before 1989)	10.65	14.05	16.75	22.35
Xylene (after 1988)				15.40
Inorganic substances				
Aluminum sulfate	3.52	4.69	5.28	7.04
Aluminum phosphide	30.00	30.00	30.00	30.00
Ammonia	2.64	3.52	3.96	5.28
Antimony	30.00	30.00	30.00	30.00
Antimony trioxide	30.00	30.00	30.00	30.00
Arsenic	30.00	30.00	30.00	30.00
Arsenic trioxide	12.97	17.29	19.46	25.94
Asbestos	5.76	7.68	8.64	11.52
Barium sulfide	7.13	9.51	10.70	14.26
Bromine	9.73	12.97	14.59	19.46
Cadmium	30.00	30.00	30.00	30.00
Chlorine	3.05	4.07	4.57	6.10
Chronite	1.52	1.52	1.52	1.70
Chramium	30.00	30.00	30.00	30.00
Cobalt	30.00	30.00	30.00	30.00
Copper	23.60	30.00	30.00	30.00
Cupric oxide	30.00	30.00	30.00	30.00
Cupric sulfate	23.18	30.00	30.00	30.00
Cuprous oxide	30.00	30.00	30.00	30.00
Hydrochloric acid	0.94	1.25	1.41	1.88
Hydrogen fluoride	23.50	30.00	30.00	30.00
Lead	8.27	11.03	12.41	16.54
Lithium carbonate	30.00	30.00	30.00	30.00
Manganese	22.69	30.00	30.00	30.00
Mercury	30.00	30.00	30.00	30.00
Nickel	30.00	30.00	30.00	30.00
Nitric acid	3.05	4.07	4.57	6.10
Phosphoric acid	7.65	10.20	11.43	15.30
Phosphorous	6.65	6.65	6.65	6.65
Potassium dichromate	15.03	20.04	22.54	30.00
Potassium hydroxide	9.83	13.11	14.75	19.66
Selenium	30.00	30.00	30.00	30.00
Sodium dichromate	18.48	24.64	27.72	30.00
Sodium hydroxide	2.82	3.76	4.23	5.64
Strannic chloride	30.00	30.00	30.00	30.00
Stannous chloride	30.00	30.00	30.00	30.00
Sulfuric acid	0.78	1.04	1.17	1.56

In the case of:	The tax (before any inflation adjustment is the following amount per ton: Sales during 1985	Sales during 1986	Sales during 1987	Sales during 1988 and thereafter until the termination date
Uranium oxide	30.00	30.00	30.00	30.00
Vanadium	30.00	30.00	30.00	30.00
Zinc	12.48	16.64	18.72	24.96
Zinc chloride	10.55	14.07	15.83	21.10
Zinc oxide	14.43	19.24	21.65	28.86
Zinc sulfate	8.30	11.07	12.45	16.60

In the case of:	*The tax (before any inflation adjustment) is the following amount per ton: Sales during 1987*	*Sales during 1988 and 1989*	*Sales after 1989 and before the termination date*
Organic substances			
Acetylene	*$35.00*	*$35.00*	*$35.00*
Benzene	*13.20*	*15.40*	*17.60*
Butadiene	*19.58*	*22.84*	*26.11*
Butane	*8.40*	*9.80*	*11.20*
Butylene	*10.30*	*12.02*	*13.73*
Coal-derived light oils	*10.04*	*11.71*	*13.39*
Coal tars	*3.56*	*4.15*	*4.75*
Ethylene	*13.78*	*16.08*	*18.37*
Methane	*4.00*	*4.67*	*5.33*
Naphthalene	*13.78*	*16.08*	*18.37*
Propylene	*11.74*	*13.70*	*15.65*
Toluene	*10.38*	*12.11*	*13.84*
Xylene	*21.30*	*21.77*	*20.33*
Inorganic substances			
Aluminum sulfate	*7.04*	*8.40*	*9.35*
Aluminum phosphide	*35.00*	*35.00*	*35.00*
Ammonia	*5.28*	*6.16*	*7.04*
Antimony	*35.00*	*35.00*	*35.00*
Antimony trioxide	*35.00*	*35.00*	*35.00*
Arsenic	*35.00*	*35.00*	*35.00*
Arsenic trioxide	*25.94*	*30.26*	*34.59*
Asbestos	*11.52*	*13.44*	*15.36*
Barium sulfide	*14.26*	*16.64*	*19.01*
Bromine	*19.46*	*22.70*	*25.95*
Cadmium	*35.00*	*35.00*	*35.00*

In the case of:	*The tax (before any inflation adjustment) is the following amount per ton:*		
	Sales during 1987	*Sales during 1988 and 1989*	*Sales after 1989 and before the termination date*
Chlorine	*6.10*	*7.12*	*8.13*
Chromite	*1.70*	*1.98*	*2.27*
Chromium	*35.00*	*35.00*	*35.00*
Cobalt	*35.00*	*35.00*	*35.00*
Copper	*35.00*	*35.00*	*35.00*
Cupric oxide	*35.00*	*35.00*	*35.00*
Cupric sulfate	*35.00*	*35.00*	*35.00*
Cuprous oxide	*35.00*	*35.00*	*35.00*
Hydrochloric acid	*1.88*	*2.19*	*2.51*
Hydrogen fluoride	*35.00*	*35.00*	*35.00*
Lead	*16.54*	*19.30*	*22.05*
Lithium carbonate	*35.00*	*35.00*	*35.00*
Manganese	*35.00*	*35.00*	*35.00*
Mercury	*35.00*	*35.00*	*35.00*
Nickel	*35.00*	*35.00*	*35.00*
Nitric acid	*6.10*	*7.12*	*8.13*
Phosphoric acid	*15.30*	*17.85*	*20.40*
Phosphorous	*7.59*	*7.59*	*7.59*
Potassium dichromate	*30.06*	*35.00*	*35.00*
Potassium hydroxide	*19.66*	*22.94*	*26.21*
Selenium	*35.00*	*35.00*	*35.00*
Sodium dichromate	*35.00*	*35.00*	*35.00*
Sodium hydroxide	*5.64*	*6.58*	*7.52*
Stannic chloride	*35.00*	*35.00*	*35.00*
Stannous chloride	*35.00*	*35.00*	*35.00*
Sulfuric acid	*1.56*	*1.82*	*2.08*
Uranium oxide	*35.00*	*35.00*	*35.00*
Vanadium	*35.00*	*35.00*	*35.00*
Zinc	*24.96*	*29.12*	*33.28*
Zinc chloride	*21.10*	*24.62*	*28.13*
Zinc oxide	*28.86*	*33.67*	*35.00*
Zinc sulfate	*16.60*	*19.37*	*22.13*

(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX—

(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1985, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

(2) APPLICABLE INFLATION ADJUSTMENT.—

(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

(i) the applicable price index for the preceding calendar year, exceeds

(ii) the applicable price index for 1984.

(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or if the increase determined under paragraph (1) is a multiple of ½ of 1 cent, such increase shall be increased to the next higher multiple of 1 cent).

[(c)] *(d)* TERMINATION.—No tax shall be imposed under this section during any period during which no tax is imposed under section 4611(a).

SEC. 4662. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this subchapter—

(1) TAXABLE CHEMICAL.—Except as provided in subsection (b), the term "taxable chemical" means any substance—

(A) which is listed in the table under section 4661(b), and

(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

(2) UNITED STATES.—The term "United States" has the meaning given such term by section 4612(a)(4).

(3) IMPORTER.—The term "importer" means the person entering the taxable chemical for consumption, use, or warehousing.

(4) TON.—The term "ton" means 2,000 pounds. In the case of any taxable chemical which is a gas, the term "ton" means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

(5) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton.

(b) EXCEPTIONS; OTHER SPECIAL RULES.—For purposes of this subchapter—

(1) METHANE OR BUTANE USED AS A FUEL.—Under regulations prescribed by the Secretary, methane or butane shall be treated as a taxable chemical only if it is used otherwise than as a fuel or in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel (and, for purposes of section 4661(a), the person so using it shall be treated as the manufacturer thereof).

(2) SUBSTANCES USED IN THE PRODUCTION OF FERTILIZER.—

(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, *phosphoric acid,* ammonia, or methane used to produce

ammonia which is a qualified fertilizer substance, no tax shall be imposed under section 4661(a).

(B) QUALIFIED FERTILIZER SUBSTANCE.—For purposes of this section, the term "qualified fertilizer substance" means any substance—

(i) used in a qualified fertilizer use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified fertilizer use, or

(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fertilizer use.

(C) QUALIFIED FERTILIZER USE.—The term "qualified fertilizer use" means any use in the manufacture or production of fertilizer or for direct application as a fertilizer.

(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

(3) SULFURIC ACID PRODUCED AS A BYPRODUCT OF AIR POLLUTION CONTROL.—In the case of sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment, no tax shall be imposed under section 4661.

[(4) SUBSTANCES DERIVED FROM COAL.—For purposes of this subchapter, the term "taxable chemical" shall not include any substance to the extent derived from coal.]

(5) SUBSTANCES USED IN THE PRODUCTION OF MOTOR FUEL, ETC.—

(A) IN GENERAL.—In the case of any chemical described in subparagraph (D) which is a qualified fuel substance, no tax shall be imposed under section 4661(a).

(B) QUALIFIED FUEL SUBSTANCE.—For purposes of this section, the term "qualified fuel substance" means any substance—

(i) used in a qualified fuel use by the manufacturer, producer, or importer,

(ii) sold for use by any purchaser in a qualified fuel use, or

(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fuel use.

(C) QUALIFIED FUEL USE.—For purposes of this subsection, the term "qualified fuel use" means—

(i) any use in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel, or

(ii) any use as such a fuel.

(D) CHEMICALS TO WHICH PARAGRAPH APPLIES.—For purposes of this subsection, the chemicals described in this subparagraph are acetylene, benzene, butylene, butodiene, ethylene, naphthalene, propylene, toluene, and xylene.

(e) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of sub-

paragraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

(6) SUBSTANCE HAVING TRANSITORY PRESENCE DURING REFINING PROCESS, ETC.—

(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any taxable chemical described in subparagraph (B) by reason of the transitory presence of such chemical during any process of smelting, refining, or otherwise extracting any substance not subject to tax under section 4661(a).

(B) CHEMICALS TO WHICH SUBPARAGRAPH (A) APPLIES.—The chemicals described in this subparagraph are—

[(i) barium sulfide, cupric sulfate, cupric oxide, cuprous oxide, lead oxide, zinc chloride, and zinc sulfate, and]

(i) any taxable chemical which is a metal or metallic compound, and

(ii) any solution or mixture containing any chemical described in clause (i).

(C) REMOVAL TREATED AS USE.—Nothing in subparagraph (A) shall be construed to apply to any chemical which is removed from or ceases to be part of any smelting, refining, or other extraction process.

(7) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term "xylene" does not include any separated isomer of xylene.

(c) USE BY MANUFACTURER, ETC., CONSIDERED SALE.—Except as provided in subsection (b), if any person manufactures, produces, or imports a taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

(d) REFUND OR CREDIT FOR CERTAIN USES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to any taxable chemical, and

(B) such chemical was used by any person in the manufacture or production of any other substance [the sale of which by such person would be taxable under such section,] *which is a taxable chemical,*

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. In any case to which this paragraph applies, the amount of any such credit or refund shall not exceed the amount of tax [imposed by such section on the other substance manufactured or produced.] *imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (e) of this section).*

(2) USE AS FERTILIZER.—Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to make ammonia without regard to subsection (b)(2), and

(B) any person uses such substance as a qualified fertilizer substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(2) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

(3) USE OF QUALIFIED FUEL.—Under regulations prescribed by the Secretary, if—

(A) a tax under section 4661 was paid with respect to any chemical described in subparagraph (D) of subsection (b)(5) without regard to subsection (b)(5), and

(B) any person uses such chemical as a qualified fuel substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were on overpayment of tax imposed by this section.

(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMCIALS.—

(1) TAX-FREE SALES.—

(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

(2) CREDIT OR REFUND WHERE TAX PAID.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if—

(i) tax under section 4661 was paid with respect to any taxable chemical, and

(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

[(e)] *(f)* DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3 and (b)(3) of section 7652 shall not apply to any tax imposed by section 4661.

[Subchapter C—Tax on Hazardous Wastes

[Sec. 4681. Imposition of tax.
[Sec. 4682. Definitions and special rules.

[SEC. 4681. IMPOSITION OF TAX.

[(a) GENERAL RULE.—There is hereby imposed a tax on the receipt of hazardous waste at a qualified hazardous waste disposal facility.

[(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be equal to $2.13 per dry weight ton of hazardous waste.

[SEC. 4682. DEFINITIONS AND SPECIAL RULES.

[(a) DEFINITIONS.—For purposes of this subchapter—

[(1) HAZARDOUS WASTE.—The term "hazardous waste" means any waste—

[(A) having the characteristics identified under section 3001 of the Solid Waste Disposal Act, as in effect on the date of the enactment of this Act (other than waste the regulation of which under such Act has been suspended by Act of Congress on that date), or

[(B) subject to the reporting or recordkeeping requirements of sections 3002 and 3004 of such Act, as so in effect.

[(2) QUALIFIED HAZARDOUS WASTE DISPOSAL FACILITY.—The term "qualified hazardous waste disposal facility" means any facility which has received a permit or is accorded interim status under section 3005 of the Solid Waste Disposal Act.

[(b) TAX IMPOSED ON OWNER OR OPERATOR.—The tax imposed by section 4681 shall be imposed on the owner or operator of the qualified hazardous waste disposal facility.

[(c) TAX NOT TO APPLY TO CERTAIN WASTES.—The tax imposed by section 4681 shall not apply to any hazardous waste which will not remain at the qualified hazardous waste disposal facility after the facility is closed.

[(d) APPLICABILITY OF SECTION.—The tax imposed by section 4681 shall apply to the receipt of hazardous waste after September 30, 1983, except that if, as of September 30 of any subsequent calendar year, the unobligated balance of the Post-closure Liability Trust Fund exceeds $200,000,000, no tax shall be imposed under such section during the following calendar year.]

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

* * * * * * *

Subchapter A—Establishment of Trust Funds

Sec. 9501. Black Lung Disability Trust Fund

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Sec. 9505. Hazardous Substance Superfund.

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SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Substance Superfund" (hereinafter in this section referred to as the "Superfund"), consisting of such amounts as may be—

(1) appropriated to the Superfund as provided in this section,

(2) appropriated to the Superfund pursuant to section 504(b) of the Superfund Revenue Act of 1984, or

(3) credited to the Superfund as provided in section 9602(b).

(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

(1) the taxes received in the Treasury under section 4611 or 4661 (relating to taxes on petroleum and certain chemicals),

(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as "CERCLA"),

(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

(4) penalties assessed under title I of CERCLA, and

(5) punitive damages under section 107(c)(3) of CERCLA.

(c) EXPENDITURES FROM SUPERFUND.—Amounts in the Superfund shall be available only for purposes of making expenditures—

(1) to carry out the purposes of paragraphs (1), (2), and (4) of section 111(a) of CERCLA as in effect on the effective date of the Superfund Protection and Expansion Act of 1984,

(2) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), and (4) of such section 111(a) (as so in effect).

(d) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

(2) LIMITATIONS ON ADVANCES TO SUPERFUND.—

(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts described in paragraph (1) of subsection (b) which will be transferred to the Superfund during the following 12 months.

(B) ADVANCES FOR PAYMENT OF RESPONSE COSTS.—No amount may be advanced after March 31, 1988, to the Superfund except for the purpose of paying response costs described in paragraph (1), (2), or (4) of section 111(a) of CERCLA which are incurred incident to a spill the effects of which the Secretary determines to be catastrophic.

(C) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

(3) REPAYMENT OF ADVANCES.—

(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund (or when required by paragraph (2)(C)).

(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(e) ESTABLISHMENT OF SEPARATE ACCOUNT FOR LEAKING UNDERGROUND STORAGE TANKS, ETC.—

(1) CREATION OF ACCOUNT.—There is established in the Superfund a separate account to be known as the "Leaking Underground Storage Tank Account" (hereinafter in this subsection referred to as the "Account") consisting of such amounts as may be—

(A) appropriated to the Account pursuant to section 504(b) of the Superfund Revenue Act of 1984,

(B) transferred to the Account as provided in paragraph (2), or

(C) credited to the Account as provided in section 9602(b).

(2) TRANSFERS TO ACCOUNT.—The Secretary of the Treasury shall transfer to the Account from the Superfund amounts equivalent to the amounts described in paragraphs (2), (3), (4), and (5) of subsection (b) which would not be so described but for the amendments made by sections 101 and 102 of the Superfund Expansion and Protection Act of 1984.

(3) EXPENDITURES FROM ACCOUNT.—

(A) IN GENERAL.—Amounts in the Account shall be available for expenditures which may be made from the Superfund under subsection (c) solely by reason of the amendments described in paragraph (2). Any expenditure which may be made from the Account (determined without regard to subparagraph (B)) may be made only from the Account.

(B) EXPENDITURE LIMITATION.—The aggregate amount of expenditures which may be made from the Account after September 30, 1985, and before October 1, 1990, shall not exceed the sum of—

(i) $850,000,000 plus

(ii) the aggregate of the amounts described in subparagraphs (B) and (C) of paragraph (1) which are transferred or credited to the Account during such period.

(4) REPAYABLE ADVANCES.—

(A) AUTHORIZATION OF TRANSFERS.—The Secretary may transfer, as repayable advances, to the Account from other amounts in the Superfund, such sums as may, from time to time, be necessary to make the expenditures described in paragraph (3).

(B) REPAYMENT OF ADVANCES.—Advances made to the Account pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the Superfund, when the Secretary of the Treasury determines that moneys are available for such purposes in the Account (or when required pursuant to subparagraph (D)).

(C) RATE OF INTEREST.—The interest on advances made pursuant to this paragraph shall be at rates determined under the rules of subparagraph (B) of subsection (d)(3) and shall be compounded annually.

(D) LIMITATIONS ON ADVANCES.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (d)(2) shall apply for purposes of this paragraph.

(f) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Expansion and Protection Act of 1984 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund is unable (by reason of paragraph (1)) to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

(4) APPLICATION TO ACCOUNT.—Rules similar to the rules of paragraphs (2) and (3) shall apply to the Leaking Underground Storage Tank Account.

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COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

* * * * * * *

TITLE I—HAZARDOUS SUBSTANCES RELEASES, LIABILITY, COMPENSATION

DEFINITIONS

SEC. 101. * * *

(1) * * *

* * * * * * *

[(11) "Fund" or "Trust Fund" means the Hazardous Substance Response Fund established by section 221 of this Act or, in the case of a hazardous waste disposal facility for which liability has been transferred under section 107(k) of this Act, the Post-closure Liability Fund established by section 232 of this Act;]

(11) "Fund" or "Trust Fund" means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;

* * * * * * *

[LIABILITY

[SEC. 107. (a) * * *

* * * * * * *

[(k)(1) The liability established by this section or any other law for the owner or operator of a hazardous waste disposal facility which has received a permit under subtitle C of the Solid Waste Disposal Act, shall be transferred to and assumed by the Post-closure Liability Fund established by section 232 of this Act when—

[(A) such facility and the owner and operator thereof has complied with the requirements of subtitle C of the Solid Waste Disposal Act and regulations issued thereunder, which may affect the performance of such facility after closure; and

[(B) such facility has been closed in accordance with such regulations and the conditions of such permit, and such facility and the surrounding area have been monitored as required by such regulations and permit conditions for a period not to exceed five years after closure to demonstrate that there is no substantial likelihood that any migration offsite or release from confinement of any hazardous substance or other risk to public health or welfare will occur.

[(2) transfer of liability shall be effective ninety days after the owner or operator of such facility notifies the Administrator of the Environmental Protection Agency (and the State where it has an authorized program under section 3006(b) of the Solid Waste Disposal Act) that the conditions imposed by this subsection have been satisfied. If within such ninety-day period the Administrator of the Environmental Protection Agency or such State determines that any such facility has not complied with all the conditions imposed by this subsection or that insufficient information has been provided to demonstrate such compliance, the Administrator or such State shall so notify the owner and operator of such facility and the administrator of the Fund established by section 232 of this Act, and the owner and operator of such facility shall continue to be liable with respect to such facility under this section and other law unitl such time as the Administrator and such State determines that such facility has complied with all conditions imposed by this subsection. A determination by the Administrator or such State that a facility has not complied with all conditions imposed by this subsection or that insufficient information has been supplied to demonstrate compliance, shall be a final administrative

action for purposes of judicial review. A request for additional information shall state in specific terms the data required.

[(3) In addition to the assumption of liability of owners and operators under paragraph (1) of this subsection, the Post-closure Liability Fund established by section 232 of this Act may be used to pay costs of monitoring and care and maintenance of a site incurred by other persons after the period of monitoring required by regulations under subtitle C of the Solid Waste Disposal Act for hazardous waste disposal facilities meeting the conditions of paragraph (1) of this subsection.

[(4)(A) Not later than one year after the date of enactment of this Act, the Secretary of the Treasury shall conduct a study and shall submit a report thereon to the Congress on the feasibility of establishing or qualifying an optional system of private insurance for postclosure financial responsibility for hazardous waste disposal facilities to which this subsection applies. Such study shall include a specification of adequate and realistic minimum standards to assure that any such privately placed insurance will carry out the purposes of this subsection in a reliable, enforceable, and practical manner. Such a study shall include an examination of the public and private incentives, programs, and actions necessary to make privately placed insurance a practical and effective option to the financing system for the Post-closure Liability Fund provided in title II of this Act.

[(B) Not later than eighteen months after the date of enactment of this Act and after a public hearing, the President shall by rule determine whether or not it is feasible to establish or qualilfy an optional system of private insurance for postclosure financial responsibility for hazardous waste disposal facilities to which this subsection applies. If the President determines the establishment or qualification of such a system would be infeasible, he shall promptly publish an explanation of the reasons for such a determination. If the President determines the establishment or qualification of such a system would be feasible, he shall promptly publish notice of such determination. Not later than six months after an affirmative determination under the preceding sentence and after a public hearing, the President shall by rule promulgate adequate and realistic minimum standards which must be met by any such privately placed insurance, taking into account the purposes of this Act and this subsection. Such rules shall also specify reasonably expeditious procedures by which privately placed insurance plans can qualify as meeting such minimum standards.

[(C) In the event any privately placed insurance plan qualifies under subparagraph (B), any person enrolled in, and complying with the terms of, such plan shall be excluded from the provisions of paragraphs (1), (2), and (3) of this subsection and exempt from the requirements to pay any tax or fee to the Post-closure Liability Fund under title II of this Act.

[(D) The President may issue such rules and take such other actions as are necessary to effectuate the purposes of this paragraph.]

* * * * * * *

USES OF FUND

SEC. 111. (a) * * *

* * * * * * *

[(j) The President shall use the money in the Post-closure Liability Fund for any of the purposes specified in subsection (a) of this section with respect to a hazardous waste disposal facility for which liability has transferred to such fund under section 107(k) of this Act, and, in addition, for payment of any claim or appropriate request for costs of response, damages, or other compensation for injury or loss under section 107 of this Act or any other State or Federal law, resulting from a release of a hazardous substance from such a facility.]

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TITLE III—MISCELLANEOUS PROVISIONS

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[EXPIRATION, SUNSET PROVISION

[SEC. 303. Unless reauthorized by the Congress, the authority to collect taxes conferred by this Act shall terminate on September 30, 1985, or when the sum of the amounts received in the Treasury under section 4611 and under 4661 of the Internal Revenue Code of 1954 total $1,380,000,000, whichever occurs first. The Secretary of the Treasury shall estimate when this level of $1,380,000,000 will be reached and shall by regulation, provide procedures for the termination of the tax authorized by this Act and imposed under sections 4611 and 4661 of the Internal Revenue Code of 1954.]

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HAZARDOUS SUBSTANCE RESPONSE REVENUE ACT OF 1980

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[Subtitle B—Establishment of Hazardous Substance Response Trust Fund

[SEC. 221. ESTABLISHMENT OF HAZARDOUS SUBSTANCE RESPONSE TRUST FUND.

[(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Substance Response Trust Fund" (hereinafter in this subtitle referred to as the "Response Trust Fund"), consisting of such amounts as may be appropriated or transferred to such Trust Fund as provided in this section.

[(b) TRANSFERS TO RESPONSE TRUST FUND.—

[(1) AMOUNTS EQUIVALENT TO CERTAIN TAXES, ETC.—There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the Response Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in

this subtitle referred to as the "Secretary") to be equivalent to—

[(A) the amounts received in the Treasury under section 4611 or 4661 of the Internal Revenue Code of 1954,

[(B) the amounts recovered on behalf of the Response Trust Fund under this Act,

[(C) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

[(D) penalties assessed under title I of this Act, and

[(E) punitive damages under section 107(c)(8) of this Act.

[(2) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Emergency Response Trust Fund for fiscal year—

[(A) 1981, $44,000,000,

[(B) 1982, $44,000,000,

[(C) 1983, $44,000,000,

[(D) 1984, $44,000,000, and

[(E) 1985, $44,000,000, plus an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraphs (A), (B), (C), and (D) as has not been appropriated before October 1, 1984.

[(3) TRANSFER OF FUNDS.—There shall be transferred to the Response Trust Fund—

[(A) one-half of the unobligated balance remaining before the date of the enactment of this Act under the Fund in section 311 of the Clean Water Act, and

[(B) the amounts appropriated under section 504(b) of the Clean Water Act during any fiscal year.

[(c) EXPENDITURES FROM RESPONSE TRUST FUND.—

[(1) IN GENERAL.—Amounts in the Response Trust fund shall be available in connection with releases or threats of releases of hazardous substances into the environment only for purposes of making expenditures which are described in section 111 (other than subsection (j) thereof) of this Act, as in effect on the date of the enactment of this Act, including—

[(A) response costs,

[(B) claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act,

[(C) claims for injury to, or destruction or loss of, natural resources, and

[(D) related costs described in section 111(c) of this Act.

[(2) LIMITATIONS ON EXPENDITURES.—At least 85 percent of the amounts appropriated to the Response Trust Fund under subsection (b) (1)(A) and (2) shall be reserved—

[(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of this Act, and

[(B) for the repayment of advances made under section 223(c), other than advances subject to the limitation of section 223(c)(2)(C).

[SEC. 222 LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.

[(a) GENERAL RULE.—Any claim field against the Response Trust Fund may be paid only out of such Trust Fund. Nothing in this Act

(or in any amendment made by this Act) shall authorize the payment by the United States Government of any additional amount with respect to any such claim out of any source other than the Response Trust Fund.

[(b) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Response Trust Fund is unable (by reason of subsection (a) or the limitation of section 221(c)(2) to pay all of the claims payable out of such Trust Fund at such time, such claims shall, to the extent permitted under subsection (a), be paid in full in the order in which they were finally determined.

SEC. 223. ADMINISTRATIVE PROVISIONS.

[(a) METHOD OF TRANSFER.—The amounts appropriated by section 221(b)(1) shall be transferred at least monthly from the general fund of the Treasury to the Response Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

[(b) MANAGEMENT OF TRUST FUND.—

[(1) REPORT.—The Secretary shall be the trustee of the Response Trust Fund, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of such Trust Fund during such fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

[(2) INVESTMENT.—It shall be the duty of the Secretary to invest such portion of such Trust Fund as is not, in his judgment, requried to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of such Trust Fund.

[(c) AUTHORITY TO BORROW.—

[(1) IN GENERAL.—There are authorized to be appropriated to the Response Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

[(2) LIMITATIONS ON ADVANCES TO RESPONSE TRUST FUND.—

[(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Response Trust Fund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts which will be appropriated or transferred to such Trust Fund under paragraph (1)(A) of section 221(b) of this Act for the following 12 months, and

[(B) ADVANCES FOR PAYMENT OF RESPONSE COSTS.—No amount may be advanced after March 31, 1983, to the Response Trust Fund for the purpose of paying response costs

described in section 111(a) (1), (2), or (4), unless such costs are incurred incident to any spill the effects of which the Secretary determines to be catastrophic.

[(C) ADVANCES FOR OTHER COSTS.—The maximum aggregate amount advanced to the Response Trust Fund which is outstanding at any one time for the purpose of paying costs other than costs described in section 111(a) (1), (2), or (4) shall not exceed one-third of the amount of the estimate made under subparagraph (A).

[(D) FINAL REPAYMENT.—No advance shall be made to the Response Trust Fund after September 30, 1985, and all advances to such Fund shall be repaid on or before such date.

[(3) REPAYMENT OF ADVANCES.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Trust Fund to which the advance was made. Such interest shall be at rates computed in the same manner as provided in subsection (b) and shall be compounded annually.]

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Subtitle C—Post-Closure Tax and Trust Fund

* * * * * * *

[SEC. 232. POST-CLOSURE LIABILITY TRUST FUND.

[(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Post-closure Liability Trust Fund", consisting of such amounts as may be appropriated, credited, or transferred to such Trust Fund.

[(b) EXPENDITURES FROM POST-CLOSURE LIABILITY TRUST FUND.—Amounts in the Post-closure Liability Trust Fund shall be available only for the purposes described in section 107(k) and 111(j) of this Act (as in effect on the date of the enactment of this Act).

[(c) ADMINISTRATIVE PROVISIONS.—The provisions of section 222 and 223 of this Act shall apply with respect to the Trust Fund established under this section, except that the amount of any repayable advances outstanding at any one time shall not exceed $200,000,000.]

VI. DISSENTING VIEWS OF THE HONORABLE BARBER B. CONABLE, BILL ARCHER, GUY VANDER JAGT, PHILIP M. CRANE, BILL FRENZEL, AND CARROLL A. CAMPBELL

Our dissent should not be misunderstood: We support Superfund's reauthorization, and we are committed to changes in the program that really will help the Environmetal Protection Agency (EPA) achieve its primary task: a prompt and efficient clean-up of the toxic waste sites that threaten public health and the environment.

Unfortunately, H.R 5640 does not provide that kind of assistance. It is an ill-conceived, "slap-dash," purely political bill that not only offers EPA no constructive help, but could severely hinder the Agency in its effort to do its job.

H.R 5640 "rocketed" through three committees of the House without any of them taking the time necessary for sound and thoughtful deliberations that an issue of this magnitude deserves. We believe that too many Members may have assumed—without examining the underlying substantive provisions—that the increased funding level contemplated by the bill insures optimum progress for site clean-up. Any assumption that each dollar put into Superfund under this bill is a dollar spent for clean-up is fallacious.

H.R. 5640 would burden the Superfund program with additional costly responsibilities, many of which are not related to its primary objective. The bill creates problems that have been simply ignored or brushed aside. For example, there is a very real possibility that the EPA, the necessary state environmental organizations, or the necessary industry laboratories, will be unable to gear up to the schedule mandated in the bill. A mandatory schedule has a first glance appeal, but even if all the necessary organizations were able to gear up as quickly as the bill would require, the schedule easily could be destroyed for reasons beyond anyone's control, such as weather delays, broken contracts, technical difficulties at particular sites, or the inability of a state to meet its cost-share requirement.

The mandated schedule is not the most egregious problem with the bill. The "citizen's suit" provision, which would allow a citizen to sue the EPA for any failure to meet its new, nondiscretionary duties (including the mandated schedule) could cause greater difficulties. Such law suits might very well keep EPA and Justice Department lawyers laboring on the defensive in unnecessary litigation, when their time would be better spent prosecuting enforcement actions.

The provision mandating new standards for site clean-up (generally referred to as the "how clean is clean" provision) also could stunt the Superfund program's progress. There is no question that toxic waste sites should be cleaned to the point at which they no

longer would pose a threat to human health or the environent. However, the mandated standard (especially in light of the citizen suit provision) would deprive the EPA of the discretion to exercise sound judgment and could force the Agency to re-direct its clean-up activities to fewer sites—making those sites pristine at the expense of citizens living near other toxic sites.

The budget already approved by the Congress for the Superfund program has increased from $210 million in 1983 to $620 million for 1985 (an amount that actually is less than that requested by the Administration). Nothing in H.R. 5640 would affect the budget for 1985. Although we are in favor of further funding that will lead to the quickest and best resolution of the nation's toxic waste problems, it is clear that H.R. 5640 merits more thorough deliberation.

The original enacting legislation, The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), anticipated further congressional action in 1985, and put in place a mechanism for an informed congressional response to whatever further program changes are needed. CERCLA requires nine studies to be completed for the Congress by the end of 1984. All of those studies will be available shortly (probably by October). Since the Superfund budget is fixed through September 30, 1985, and the revenue raising provisions do not expire until that time, we cannot understand why it was necessary to deliberate in such haste. The much needed information required by CERCLA includes studies on: the effectiveness of the current Superfund program, projected future funding needs, and the feasibility and desirability of alternative funding systems. The studies are expected to address the effects of the current feedstock tax on the balance of trade and to contain an analysis of the relationship between the present feedstock tax system and toxic wastes found in sites by the EPA. Making changes in the Superfund program without the benefit of those studies is the equivalent of "flying blind."

From our review of the status of the toxic waste problem during the past two weeks, it is clear that the annual funding should be increased. It is equally clear that the EPA should be permitted some input in order to assure that the program is expanded in such a way as to be administratively feasible and economically efficient. Although there were implementation difficulties in the early stages of the program, those difficulties have for the most part been resolved under the guidance of William Ruckelshaus, Admninistrator, and Lee Thomas, Assistant Administrator for Solid Waste and Emergency Response. From Mr. Thomas' testimony, it is clear that the EPA, under its current leadership, has accelerated and expanded its Superfund activity very quickly and that additional strides are inevitable.

We sincerely regret our lack of jurisdiction to address the program changes in H.R. 5640—both because the program changes could impede the clean-up program and because the magnitude of some of the program changes have, under the time constraints imposed on our deliberations, forced the Committee to adopt a very inequitable funding mechanism. Given more time, there is no question but that this Committee has the sensibility and sensitivity to do much better.

The feedstock tax in current law may be the most arbitrary tax in the Internal Revenue Code. H.R. 5640 would exacerbate its inequities. The tax burden it would impose has little or no direct relationship to the responsibility burden. Some entities which would bear the tax burden were not in existence when the wastes in question were dumped. Many of those which were in existence did not do any dumping. The feedstock tax, therefore, is not predicted on responsibility. It is predicated on the ability of taxpayers to pass the burden through to their customers, the users of the feedstocks that have been found in the various toxic waste sites—a clearly erroneous assumption in many cases.

The companies which have benefited by the dumping are the companies which have saved the cost of properly disposing of the waste. In all cases in which specific companies can be identified as accountable, the EPA either forces those companies to clean-up, or it does the cleaning up and collects up to three times the cost from the parties responsible. The companies which sold feedstocks at the time the dumping occurred have received no more than market prices for their products, just as companies which sell feedstocks today get market prices for their products. The fact that small portions of their products were used down-the-line by unrelated to manufacture products that are toxic and that some other unrelated party improperly discarded, is a "shaky" basis for determining who should be taxed.

Because the feedstock tax is imposed primarily on companies that are not responsible for the sites for which the tax is imposed, the tax base should be as broad as possible—so that the burden on any particular industry (and any company within each industry) is not unreasonable. That is not the case under H.R. 5640 as reported by the Committee on Ways and Menas. Seventy percent of all the feedstock taxes will continue to be paid by no more than 12 to 15 companies. In most cases, the tax on feedstocks would dramatically increase on January 1, 1985. In one case the tax increase would be more than a 12-fold increase, with a possibility that it could become an 18-fold increase by 1990.

There is a strong possibility that the taxes imposed on some businesses would exceed their profits. Thus, H.R. 5640 may not result merely in a severe reduction in business reinvestment, it is likely also to severely or even fatally damaged some struggling industries, with the inevitable negative impact on unemployment.

We do not believe that the present form of H.R. 5640 reflects an insensitivity by our Committee to this fairness issue. The funding mechanism of the bill is more clearly the product of the limited timeframe in which we were permitted to respond. We believe that the Committee's willingness to reexamine this issue is evidenced by the bill's gradual phase-in of the rates in 1985, thus allowing (potentially) additional time to find an appropriate level of tax burden. That was a laudable decision.

Because large volumes of wastes at many sites were contributed by manufacturing industries which make no contribution ot the Superfund, we believe that spreading the tax burden to those industries, by adopting a waste-end tax, would be a significant improvement. We also applaud the Committee decision to require a

comprehensive examination of waste-end tax alternatives in time for Congress to act next year.

Adoption of a properly designed waste-end tax is desirable, not only because of fairness, but for environmental reasons. Disposal of toxic waste in landfills should be discouraged because of the virtual certainty that the waste, in years to come, will leach into the drinking water beneath. A properly designed waste-end tax would discourage the use of landfills, would tax the more hazardous substances at a higher rate, and would favor treatment processes (such as incineration) that greatly reduce risks to the environment and public health. In addition, the tax rate could vary based on the quality of the disposal method; that is, based on how safe a particular disposal is with regard to the public health and the environment.

In light of the fact that feedstock taxes are collected from many companies that are not responsible for the toxic waste problem (but rather are collected from entire industries that have been found to have some connection to toxic waste sites), the Committee should examine whether the taxes should be allocated among industries based on each one's contribution to toxic waste problems.

The funding mechanism of H.R. 5640 has many other unhappy aspects that were brushed aside in Committee—including the possibility that it will encoruage much of our chemical industry to move operations offshore. There also is a balance of trade issue, arising from a feedstock tax system that gives an advantage to imported feedstock derivatives. Fortunately, H.R. 5640 also requires a study of the trade ramifications which also will be available for further Committee action next year.

The clean-up of toxic waste in our country is a complex and emotional issue. More importantly, it is a very serious issue in human and economic terms—one of the most serious that the Congress will address. We regret that partisan politics played such an oversized role in the reauthorization process. This is not the way to legislate, and we hope that at least some of the problems in H.R. 5640 can be rectified in further deliberations.

BARBER CONABLE.
BILL ARCHER.
GUY VANDER JAGT.
PHIL CRANE.
BILL FRENZEL.
CARROLL CAMPBELL.

VII. ADDITIONAL DISSENTING VIEWS OF THE HONORABLE CARROLL A. CAMPBELL, JR.

In 1980, the Comprehensive Environmental Response, Compensation and Liability Act established Superfund in an effort to provide funding for a comprehensive system of notification, emergency response, enforcement, and liability for hazardous waste spills and uncontrolled hazardous waste sites. It is quite clear that virtually every Member of Congress, the business community, and the citizens of our nation want Superfund reauthorized. I strongly support the reauthorization of Superfund, and I think the reasons for reauthorization are rather evident.

The Ways and Means Committee basically confronted two problems: first, how much revenue is needed for Superfund, and second, how is this revenue to be raised. I supported the substitute offered by Mr. Conable because it was a better and more reasonable proposal. This proposal raised an adequate amount of revenue ($7.6 billion, which is a $6 billion increase over current law), and it raised the funding in an equitable manner. I did not support every aspect of the substitute proposal. For instance, I believe a differential in the waste-end tax for less hazardous waste would have been preferential to a straight $25/ton wet-weight tax. However, I believe the Conable proposal offered the most reasonable and effective means for cleaning up and controlling hazardous waste.

The Ways and Means Committee substitute proposal raises approximately $10.2 billion over the five year reauthorization period. $2.3 billion of this amount will come from general revenues, a point which was barely discussed during the consideration of this bill. Moreover, the waste end tax was eliminated, which removes much of the responsibility and incentives for those contributing to the overall waste problem.

Superfund revenue raising capabilities do not expire until September of 1985. I do not understand why we had to move in such haste on this vital legislation. EPA will have a comprehensive study on all aspects of Superfund completed by December, and yet we could not wait. EPA testified that many of the new provisions could actually result in a "slowing down of cleanup operations which are at the heart of the Superfund law." Moreover, no one is certain if this funding is sufficient to rectify the problem, or whether this amount of funding can even be used in the five year period.

This bill has many other ramifications that have been simply ignored, unanswered, or brushed aside. The trade problem has not been settled. The question of imported derivatives escaping the new tax is a problem especially in light of our current trade imbalance. The proposal does contain a study on this issue, and I am looking forward to reading the recommendations of the Treasury Department and the International Trade Commission.

The clean-up of toxic and hazardous waste in our country is a serious issue. I regret that partisan politics played a major role in the reauthorization process for Superfund. This is not the way to legislate, and I hope that some of these problems can be rectified in further deliberations.

CARROLL CAMPBELL.

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